



ALAN WILSON
ATTORNEY GENERAL

November 18, 2013

Charles J. Boykin, Esquire
Boykin & Davis, LLC
PO Box 11844
Columbia, SC 29211

Dear Mr. Boykin:

This Office received a request from you, as attorney for York Technical College, for an opinion regarding the definitions of "school" and "school district" in section 59-63-370 of the South Carolina Code a/k/a the "School Crime Report Act" for purposes of determining if York Technical College's teachers or instructors must be notified of crimes that its students have committed.

LAW/ANALYSIS:

Section 59-63-370 of the South Carolina provides:

Notwithstanding any other provision of law:

(1) When a student who is convicted of or adjudicated delinquent for assault and battery against school personnel, as defined in Section 16-3-612, assault and battery of a high and aggravated nature committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity, a violent offense as defined in Section 16-1-60, an offense in which a weapon as defined in Section 59-63-370 was used, or for distribution or trafficking in unlawful drugs as defined in Article 3, Chapter 53 of Title 44 is assigned to the Department of Juvenile Justice, the Department of Corrections, or to the Department of Probation, Parole, and Pardon Services, that agency is required to provide immediate notice of the student's conviction or adjudication to the senior administrator of the school in which the student is enrolled, intends to be enrolled, or was last enrolled. These agencies are authorized to request information concerning school enrollment from a student convicted of or adjudicated delinquent for an offense listed in this item.

(2) When a student convicted of or adjudicated delinquent for an offense listed in item (1) of this section is not sentenced to incarceration or probation, the presiding judge shall as part of his sentence order the clerk of the municipal, magistrate, or general sessions court to provide, within

ten days, notification of the student's sentence to the appropriate **school district** for inclusion in the student's permanent record. If the student is under the jurisdiction of the family court and is not referred to the Department of Juvenile Justice, the prosecuting agency must provide notification within ten days to the appropriate **school district**.

(3) An administrator notified pursuant to this section is required to notify each teacher or instructor in whose class the student is enrolled of a student's conviction of or adjudication for an offense listed in item (1) of this section. This notification must be made to the appropriate teachers or instructors every year the student is enrolled in school.

(4) If a student is convicted of or adjudicated delinquent for an offense listed in item (1) of this section, information concerning the conviction or adjudication and sentencing must be placed in the student's permanent school record and must be forwarded with the student's permanent school records if the student transfers to another school or school district.

A "weapon", as used in this section, means a firearm, knife with a blade-length of over two inches, dirk, razor, metal knuckles, slingshot, bludgeon, or any other deadly instrument used for the infliction of bodily harm or death.

S.C. Code Ann. § 59-63-370 (1976 Code, as amended) (emphasis added).

The South Carolina Code defines "private school" and "public school." See S.C. Code Ann. § 59-1-110 (1976 Code, as amended); S.C. Code Ann. § 59-1-120 (1976 Code, as amended). The issue is the definition of "school."¹ There is a South Carolina Tax Commission opinion which is of assistance with this matter. In *Op. S.C. Tax Comm.*, S.C. Revenue Ruling No. 96 – 6, June 12, 1996 (1996 WL 942012), the Tax Commission opined on what the term "school" meant for purposes of the property tax exemption in Section 12-37-251(A)² of the South Carolina Code. The Tax Commission reviewed Section 12-37-251(F),³ which refers to "school districts" when describing who received the reimbursement for the

¹ In section 59-21-10 of the South Carolina Code, "school" is defined but only for purposes of Article 1, "Teachers Salaries and Overhead," which is part of Chapter 21, "State Aid for Schools."

² Section 12-37-251(A) stated that:

Property classified pursuant to Section 12-43-220(c) is exempt from property taxes levied for other than bonded indebtedness and payments pursuant to lease-purchase agreements for capital construction. The exemption applies against millage imposed for **school** operations and the amount of fair market value of the homestead that is exempt from such millage must be set by the Department of Revenue and Taxation based on the amount available in the State Property Tax Relief Fund.

S.C. Code Ann. § 12-37-251(A) (1976 Code, as amended) (emphasis added) (repealed June 10, 2006).

³ Section 12-37-251(F) stated that:

estimated school tax revenue lost due to the property tax exemption. The Tax Commission determined that “since total school revenues lost as a result of the exemption are to be reimbursed to the school districts, the Department believes ‘school’ must relate to ‘school districts.’” The Tax Commission reviewed the definition of school district in Section 59-1-160 which is as follows:

‘School District’ means any area or territory comprising a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.

S.C. Code Ann. § 59-1-160 (1976 Code, as amended). The Tax Commission determined that “the term ‘school’ as used in Code Section 12-37-251 means a school district's provision of free education to students in kindergarten through grade 12, including district and area vocational schools. The term does not include colleges, junior colleges, or public libraries.”⁴

Similar to Section 12-37-251, the term “school” is related to “school district” in Section 59-63-370 a/k/a the “School Crime Report Act.” Notification must be given to the school or school district if a student is convicted of or adjudicated delinquent for certain offenses; both are required to notify teachers or instructors of any class in which the student is enrolled; and both are required to place information concerning the conviction or adjudication in the student's permanent school record. Therefore, the Tax Commission’s determination that the term “school” “does not include colleges, junior colleges, or public libraries” is applicable to the case at hand.

The exemption allowed by this section is conditional on full funding of the Education Finance Act and on appropriation by the General Assembly each year reimbursing school districts an amount equal to the Department of Revenue and Taxation’s estimate of total school tax revenue loss resulting from the exemption in the next fiscal year.

S.C. Code Ann. § 12-37-251(F) (1976 Code, as amended) (emphasis added) (repealed June 10, 2006).

⁴ In a subsequent opinion, we agreed with the Tax Commission’s interpretation of the term “school,” but based on amendments to the South Carolina Code, we added:

Consistent with the Department's [Tax Commission’s] interpretation of section 12-37-251 in 1996 and the plain wording of section 12-37-251 as provided by the Legislature, we opine that the use of the term “school” in this provision refers to f[r]ee education offered to students in kindergarten through twelfth grade, school districts and boards of education, vocational schools, alternative schools, and career and technologycenters.

See Op. S.C. Atty. Gen., November 27, 2007 (2007 WL 4284627). Although section 12-37-251 was again amended in 2011, the amendment does not appear to affect the definition of ‘school’ in our 2007 opinion.

CONCLUSION:

In conclusion, York Technical College is not required to notify its instructors or teachers of certain crimes of which its students have been convicted or adjudicated or to place information concerning the conviction or adjudication in the student's permanent school record pursuant to Section 59-63-370. However, the law does not prevent York Technical College from voluntarily taking these actions.

Sincerely,



Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General