



ALAN WILSON
ATTORNEY GENERAL

April 29, 2019

John G. Frampton, Esq.
Dorchester County Attorney
201 Johnston St.
St. George, SC 29477

Dear Mr. Frampton:

We received your request seeking an opinion on whether a school resource officer may be assigned to a private, nonprofit school. This opinion sets out our Office's understanding of your question and our response.

Issue:

Your letter requests a legal opinion concerning whether it would be proper and lawful for county sheriff to provide a sheriff's deputy as a school resource officer ("SRO") to a private, nonprofit school (PK3 through 12th grade). Your request letter indicates that the SRO would be assigned to the school while classes are in session and would perform general law enforcement duties in the county as assigned by the sheriff during school vacations such as summer breaks. We also understand that the school would reimburse the county for the deputy's compensation on a pro-rata basis calculated according to the time spent assigned to the school and the time spent on other law enforcement duties.

Law/Analysis:

It is the opinion of this Office that Section 5-7-12 of the South Carolina Code does not authorize the assignment of a school resource officer to a private school. This should not be construed to mean that law enforcement officers with jurisdiction over a private school cannot take any action they normally and generally could with respect to private property as appropriate. We simply opine that the SRO statute set out in Section 5-7-12 is limited by its plain language to public schools only.

Section 5-7-12 of the South Carolina Code provides for the assignment of law enforcement officers as a school resource officer and reads in relevant part:

(A) The governing body of a municipality or county may upon the request of another governing body or of another political subdivision of the State,

including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. . . .

(B) For purposes of this section, a “school resource officer” is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

S.C. Code Ann. § 5-7-12 (Supp. 2018).

This author's research has not identified any reported South Carolina case or prior opinion of this Office which addresses your question directly. It appears that a court faced with this question would rely upon the rules of statutory construction to give effect to the intention of the Legislature in codifying the various statutes set out above. In the words of the South Carolina Supreme Court:

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute. Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature.

Hodges v. Rainey, 341 S.C.79, 85, 533 S.E.2d 578, 581 (2000) (internal citations and quotations omitted). That same Court also has opined that “[t]he canon of construction '*expressio unius est exclusion alterius*' or '*inclusion unius est exclusion alterius*' holds that 'to express or include one thing implies the exclusion of another, or of the alternative.'" 341 S.C. at 86, 533 S.E.2d at 582.

Turning to the text of Section 5-7-12, we first observe that Subsection (A) generally empowers a city or county to place a school resource officer “within the school systems of the

municipality or county.” Subsection (B) expressly defines a school resource officer in part as a sworn officer “who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.” Taken together, both this definition and the general grant of authority to municipalities and counties plainly describe public schools operated by a political subdivision of the State.

The unambiguous reference in Section 5-7-12 to assigning SROs to “school systems of the municipality or county” is consistent with the definition of a “school district” in Title 59 of the South Carolina Code: “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 (2004) (emphasis added). Conversely, Title 59 generally defines a “private school” as “a school established by an agency other than the State or its subdivisions which is primarily supported by other than public funds, and the operation of whose program rests with other than publicly elected or appointed officials.” S.C. Code Ann. § 59-1-110 (2004) (emphasis added). By definition, a private school is not a one public one.

In summary, the General Assembly plainly intended that a law enforcement officer could be assigned to work “within the school systems of the municipality or county” as an SRO and to be responsible to “act as a law enforcement officer, advisor, and teacher for that school district.” Private schools by definition are not within the school systems of a municipality or county; neither are they under the authority of a public school district as defined in our Code. Where the language of Section 5-7-12 expressly includes public schools specifically but does not reference private schools in any way, we are compelled to conclude that the General Assembly intended to distinguish between the two, and the express inclusion of the former excludes the latter. *See Hodges v. Rainey*, 341 S.C.79, 86, 533 S.E.2d 578, 582 (2000).

Conclusion:

In conclusion, it is the opinion of this Office that a court would conclude that Section 5-7-12 of the South Carolina Code does not authorize the assignment of a school resource officer to a private school. This opinion should not be construed to mean that law enforcement officers with jurisdiction over a private school cannot take any action which they normally and generally could with respect to private property as appropriate. We simply opine that the SRO statute set out in Section 5-7-12 is limited by its plain language to public schools only. Whatever the underlying policy considerations may be, as a matter of law we are bound to follow the plain and unambiguous meaning of the words used by the Legislature.

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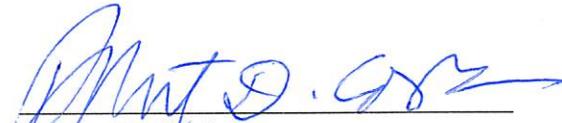
Finally, we note that numerous prior opinions of this Office discuss the statutory power of licensed private security officers on the property which they are employed to protect. *See, e.g., Op. S.C. Att'y Gen.*, 2016 WL 963703 (February 5, 2016) (“[A] properly licensed private security guard is considered a law enforcement officer for purposes of Section 22-5-110(B)(1) when he or she is operating on the property he or she is licensed to protect.”).

Sincerely,



David S. Jones
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General