

1973 WL 26645 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1973

***1 Re: No. 336—Universities and Colleges No. 278—South Carolina Boards and Commissions**

James R. Michael
S. C. Commission on Higher Education
1429 Senate Street
Columbia, S. C. 29201

Dear Mr. Michael:

Attorney General McLeod requested that I review the letter to you dated February 15, 1973, from Mr. Fish, a law clerk with our office. This letter pertains to 1972 Act No. 1268 in relation to 1969 Act No. 353 as they relate to the respective jurisdictions of the State College Board of Trustees, the State Board for Technical and Comprehensive Education, the State Commission on Higher Education, and the Trustees of both the University of South Carolina and Clemson. Basically the confusion centers around Sections 2 and 8 of 1972 Act No. 1268 and raises the issue of jurisdiction and control over branches or centers of the University of South Carolina or Clemson which expand their programs to include junior and senior level courses.

Mr. Fish's letter was a re-statement of an earlier opinion of mine to Dean Willard Davis at the University of South Carolina, dated November 28, 1972. At Attorney General McLeod's request I have re-evaluated my earlier opinion and Mr. Fish's letter and arrive at the same conclusion—branches and centers of the University of South Carolina and Clemson which offer junior and senior level courses as authorized by the 1972 Act would not thereby become a 'four-year state-supported college,' but would remain a subdivision of the parent university.

My opinion is based both upon the wording used in the respective statutes as well as rules of statutory construction. First, the addition of junior and senior level courses at branches of the University of South Carolina and Clemson would not, in my opinion, make these branches a 'four-year state-supported college' under Section 22-611, Code of Laws of South Carolina, for the purposes of placing such branches under the State College Board of Trustees. Any degree would in itself come from the parent university, and paragraph 2 of Section 2, 1972 Act 1268 specifically states that:

It is provided further that university branches or centers are hereby specifically authorized to offer courses in the junior level . . . and to offer in the senior level . . . , both subject to the approval of the Board of Trustees of the University concerned. Such branch or center shall continue to be under administrative jurisdictional control which local governing board and the Board of Trustees of the University of South Carolina or Clemson University, as the case may be.

Second, according to accepted rules of statutory construction, special or particular provisions control general provisions. 82 C.J.S., Statutes § 347(b) General and Specific Provisions. While Section 8 of 1972 Act 1268 was the last in time and position, the doctrine of last resort: 'In accordance with the principle that the last expression of the legislating will is the law, where conflicting provisions are found in the same statute, or in different statutes, the last and point of time or order of arrangement prevails . . . However, this is purely an arbitrary rule of construction and is to be resorted to only when there is clearly an irreconcilable conflict, and all other means of interpretation have been exhausted.' [Feldman v. S. C. Tax Commission](#) 203 S.C. 49, 26 S.E. 2d 22 (1943). Consequently, I am of the opinion that the specific provision in Section 2 should supersede the general provision of Section 8, thus leaving branches with junior and senior level courses under the parent university.

*2 Please feel free to contact me if I may be of any further assistance to you.

Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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