

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-734-3636

September 12, 1986

Herman E. Cain, Superintendent
Holly Hill School District No. 3
Post Office Box 98
Holly Hill, South Carolina 29059

Dear Superintendent Cain:

You have requested the advice of this Office as to whether the County of Orangeburg (County) may cease providing funding for the Orangeburg County Board of Education (County Board). The school districts have been requested to provide any necessary funding for the County Board.

Statutory provisions do not make clear the extent to which the County is obligated to fund the County Board; however, some guidance is provided by statutes that require counties to supply office space and equipment, etc. for county superintendents of education (county superintendents). See, Sections 4-1-80 and 59-13-50 of the Code of Laws of South Carolina, 1976 (county superintendents). Because the County Superintendent's office has been abolished in Orangeburg County and certain of its duties devolved upon the County Board as well as upon the various school districts, the County should still be responsible for supplying office space for those functions of the County Board that are attributable to duties of the County Superintendent. See, Act 291, Acts and Joint Resolutions of South Carolina, 1979; Ops. Atty. Gen. (October 18, 1983) and Sutherland Statutory Construction, Vol 3, § 51.02.

Act 291 expressly delegated certain functions to the County Board including housing the county food service supervisor, housing the clerical secretary of the Board, and providing for attendance supervision. Because this Act indicates that some of these functions may have been performed by the County Superintendent, at least the office space, equipment, and supplies for those functions devolved upon the County Board should be funded by the County to the extent that State funding is not provided. See, Section 57-65-210 and Act 540 § 30, 1986 (attendance supervisors, school lunch supervisors).

Herman E. Cain, Superintendent
Page Two
September 12, 1986

As to the remaining functions of the County Board, statutory provisions do not clearly identify which political entity has the responsibility for funding although some State funding is still allocated for the Orangeburg County Superintendent. See, Section 59-15-10, et seq.; Act 540 § 30; Ops. Atty. Gen. (October 18, 1983); see also, Ops. Atty. Gen. (March 20, 1979). Because the District Boards of Trustees were authorized to contract jointly with other persons or agencies for administrative services upon the devolution of authority from the county superintendent, the Boards of Trustees would appear to have authority and may have the duty to fund remaining expenses of the County Board. See, Ops. Atty. Gen. (October 18, 1983); see also, Sections 59-113-100 and 59-113-110.

Legislative clarification of these responsibilities would be desirable. In the interim, the Boards of Trustees and the County of Orangeburg may wish to consider an agreement to divide funding responsibility for the various functions of the County Board of Education. Such an agreement would be consistent with the statutory funding responsibilities of the County and with the authority given to the Boards of Trustees to contract for fiscal and administrative services.

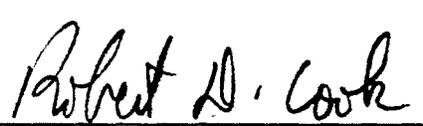
If you have any questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr:st

REVIEWED AND APPROVED:



Robert D. Cook
Executive Assistant for Opinions