

1977 S.C. Op. Atty. Gen. 277 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-348, 1977 WL 24687

Office of the Attorney General

State of South Carolina

Opinion No. 77-348

November 3, 1977

*1 For the purposes of receipt of expenditure of funds appropriated or granted to schools operated by the Department of Youth Services, the Board of Youth Services operates in the same way as a board of trustees of a local school district. Similarly, the teachers employed by the Board for its schools, for the purposes of applying the laws governing the receipt of funds from the State Department of Education for State aid to teachers' salaries, are considered to be employees of a local school district.

TO: Representative Kay Patterson
Richland County District No. 73

QUESTIONS PRESENTED:

- (1) Do the schools operated by the Department of Youth Services constitute a 'local school district'?
- (2) If so, does the Board of Youth Services operate as a board of trustees for a local school district with regard to schools under its jurisdiction?
- (3) Are the teachers employed by the Board of Youth Services for its schools considered to be school district employees, and if so, is that portion of their salary which is paid directly by the Department of Youth Services from its State appropriated funds considered a 'local supplement'?
- (4) Do the provisions of the 1977-78 State Appropriations Act, which attach certain stipulations on the use of State Aid for Teachers' Salaries, apply to the Department of Youth Services in the same way that such provisions apply to a local school district?

STATUTES, CASES, ETC.

S.C. Code Ann. § 24-15-130 (1976);

S.C. Code Ann. § 59-1-160 (1976);

S.C. Code Ann. § 59-1-40 (1976);

S.C. Code Ann. § 59-21-10, et seq. (1976);

S.C. Code Ann. § 59-19-10, et seq. (1976);

1977 S.C. Acts & Joint Resolutions, Act No. 219, 'Part I', § 31, 'General Provisions', para. 22 and 23; and § 57 (May 31, 1977);

1969 S.C. Acts & Joint Resolutions, Act No. 386 (July 3, 1969);

Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376, 378 (1970);

1970–71 Ops.Atty.Gen. No. 3105, pp. 51–52;

1969 Unpub.Ops.Atty.Gen., Letter from C. Tolbert Goolsby, Jr. to R.A. Durham, August 9, 1969.

DISCUSSION OF ISSUES:

1. The schools operated by the Department of Youth Services will be treated as though they constitute a ‘local school district’ for all administrative purposes, including the receipt and expenditure of funds.

Generally speaking, under State law, the State system of public education consists of ‘school systems, schools, institutions, agencies, services, and types of instruction as may be provided and authorized by law, or by rules and regulations of the State Board of Education within limits prescribed by law’. See S.C. Code Ann. § 59–1–40 (1976) For the purposes of administering State aid for schools, a ‘school’ is defined as a division of the ‘school system’. See S.C. Code Ann. § 59–21–10 (1976). Generally, a ‘school district’ constitutes a ‘school system’ and is defined as ‘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’. See S.C. Code Ann. § 59–1–160 (1976). A school district is under the management and control of the district board of trustees. See S.C. Code Ann. § 59–19–10 (1976).

*2 In the case of the Department of Youth Services, S.C. Code Ann. § 24–15–130 (1976) establishes a ‘school system’ consisting of various academic and vocational training institutions administered by the Board of Youth Services. In this regard, § 24–15–130 states:

The Board of Youth Services shall operate as the Board of Trustees for schools under its jurisdiction for all administrative purposes, including the receipt and expenditure of funds appropriated or granted to the schools for any purpose. (emphasis added)

For all general purposes, the statutes establishing academic and vocational training institutions under the jurisdiction of the Department of Youth Services, fairly construed, establish a ‘school system’ as opposed to a ‘school district’. General considerations aside, however, this office has consistently held that the Legislature intended through the provisions of § 24–15–130, supra, that the schools operated by the Department of Youth Services should be considered and treated in the same way as schools operated by a school district, for the purposes of administration, including the receipt and expenditure of school funds. In a 1971 opinion issued by the Attorney General, stating that schools operated by the Board of Juvenile Corrections (the predecessor of Board of Youth Services) must be allowed to participate in the school lunch program to the same extent as all other public schools, it is stated that:

The State Department of Education is required by Act No. 386 of 1969 [the predecessor of § 24–15–130, and containing the same provisions in question here] to assist financially any school operated by the Board of Juvenile Corrections [the predecessor of the Board of Youth Services] to the same extent that the Department is obligated to aid other school districts in this state. See 1970–71 Ops.Atty.Gen. No. 3105, pp. 51–52 (emphasis added).

This is an appropriate construction of the terms of § 24–15–130, since the general law under the school code concerning administration of the schools by the Board of Trustees and concerning the administration of funds for school purposes, is specifically defined in terms of ‘school districts’ or of schools comprising school districts. See S.C. Code Ann. §§ 59–19–10, et seq.; and 59–21–10, et seq. (1976). Therefore, for the purposes of providing for the administration of school funds, the schools operated by the Department of Youth Services are considered to be schools operated by, and constituting, a local school district.

2. The Board of Youth Services operates as a district board of trustees for the schools under its jurisdiction.

In 1969, the General Assembly created the Department of Juvenile Corrections, which was the predecessor of the Department of Youth Services. See 1969 S.C. Acts & Joint Resolutions, Act No. 386 (July 3, 1969). One provision of this Act, § 55–50.11, contained the same provisions concerning the establishment and operation of schools as are presently contained in § 24–15–130. In construing those provisions, shortly after the enactment of the statute, this Office stated:

*3 Obviously, by the new act the Board of Juvenile Corrections is to be regarded as a board of trustees of a school district at least insofar as the allocation of State financial aid is concerned.

(1969 unpub. Op. Atty. Gen., Letter from C. Tolbert Goolsby, Jr. to R. A. Durham, August 7, 1969)

This same position was subsequently expressed in a published 1971 opinion. See 1970–71 Ops. Atty. Gen. No. 3105, pp. 51–52. In 1972, the Legislature amended the 1969 Act, changing the name of the agency to the ‘Department of Youth Services’ and changing the name of the governing board to the ‘Board of Youth Services’. These amendments however incorporated the same provisions found in the 1969 Act directing the Board of Youth Services to operate as a board of trustees, using the same language previously construed by this Office in 1969 and 1971. Consistent with previous interpretations of this same language, which the Legislature has left unchanged, the Board of Youth Services under the plain language of § 24–15–130 is to be regarded as a board of trustees of a school district for the purposes of administering the schools under its jurisdiction, at least as far as financial aid is concerned.

3. The teachers employed by the Board of Youth Services for its schools are considered ‘school district’ employees for funding purposes, and that portion of a teacher’s salary paid directly by the Department of Youth Services from its general appropriations should be considered a ‘local supplement.’

As a general matter, the General Assembly each year appropriates sufficient sums to provide ‘State aid’ for the payment of teachers’ salaries for teachers employed by the various counties and school district. See S.C. Code Ann. § 59–21–10, et seq. (1976). The school districts may provide local financial support, generally designated as ‘local supplements’, for teachers’ salaries. See 1977 S.C. Acts & Joint Resolutions, Act No. 219, Part I, § 31, ‘General Provisions’, para. 22 and 23 (May 31, 1971). These local supplements are derived from taxes assessed on a county-wide or district-wide basis.

Relating this to the Department of Youth Services, § 24–15–130 states in part:

Schools operated by the Board shall receive funds from the State Department of Education under the same provisions as other public schools in South Carolina.

As already discussed, for the purposes of administering funds, the schools operated by the Department of Youth Services are treated in the same fashion as schools operated by any school district in the State. Thus the teachers employed by the Department of Youth Services, for the purposes of salary considerations, are considered to be employees of a school district. Like employees of a school district, they receive a portion of their salary from the State Aid for Teachers’ Salaries disbursed by the State Department of Education, and the remainder of their salary from that portion disbursed by the Department of Youth Services appropriated directly to the Department of Youth Services by the General Assembly for this purpose. See 1977 S.C. Acts & Joint Resolutions, Act No. 219, Part I, § 57 (May 31, 1977). Thus, consistent with the statutory language of § 24–15–130, a teacher employed by the Department of Youth Services, standing in the same position as a teacher employed by a school district, receives his salary from two separate sources, first from the State Department of Education through its disbursements for State aid to teachers’ salaries, and secondly from the ‘district’ for which the teacher works, in this case the Board of Youth Services. The fact that the portion of the teacher’s salary funded by the Department of Youth Services is financed through State appropriations, as opposed to funds raised on a county-wide or district-wide basis, is of no consequence. The fact remains that the teacher’s salary is funded from two separate sources and that portion of the salary paid directly by the Department of Youth Services logically is considered the ‘local supplement’ when construing the statutes relating to the administration of school funds.

*4 This is consistent with previous interpretations of this section by our office as it applied to the Board of Juvenile Corrections, the predecessor of the Board of Youth Services:

[I]t is clear that the Department of Education must distribute funds to the Board of Juvenile Corrections for the operation of its schools to the same extent that funds are distributed to the various boards of trustees throughout the state. For example, for the fiscal year 1969–1970, the Department of Education has been appropriated \$137,400,740.00 that is to be used to aid school districts in the payment of teachers' salaries. (cite omitted) The Board of Juvenile Corrections would be entitled to receive from the Department a portion of that sum to supplement the salaries of teachers employed by it to the same extent that any other board of trustees in this state would be entitled to received a part of those funds for the same purpose.

That the Board of Juvenile Corrections' appropriation for personal services was not decreased is, to us, immaterial. It must be presumed that these funds are to be supplemented by that which is distributed by the Department of Education, absent a provision to the contrary.

1969 unpub. Ops.Atty.Gen., Letter from C. Tolbert Goolsby, Jr. to R.A. Durham, August 7, 1969.

4. The provisions of the 1977–78 Appropriations Act, which attach certain stipulations to the use of State Aid for Teachers' Salaries, applies to the Department of Youth Services in the same way that it applies to a local school district.

Under the 1977–78 Appropriations Act, the General Assembly provided the Department of Education with sufficient funds to increase the amount of State Aid for Teachers' Salaries provided in this fiscal year, as compared with that provided in 1976–77. However, certain stipulations were attached to the use of the increased State aid, if such increases were utilized by the local school districts. These stipulations, in part, state:

[N]o school district in this State shall be eligible for the increase in State Aid for Teachers' Salaries provided in this section unless aggregate amount of a district's local financial support designated for local salary supplements for positions funded under the State Aid Salary Schedule for the fiscal year beginning July 1, 1977, is at least equivalent to the aggregate amount of local financial support designated for such local salary supplements in fiscal year 1976–77; . . .

PROVIDED FURTHER, THAT the amount of such supplement for each district employee eligible for State aid . . . who is performing the same or similar duties shall be at least equivalent to the supplement paid to such employee for the fiscal year 1976–77.

1977 S.C. Acts & Joint Resolutions, Act No. 219, 'Part I', § 31, 'General Provisions', para. 22 and 23 (May 31, 1977).

The plain meaning of the language of these provisions is that the Legislature intends for a local school district to continue to provide at least as much local financial support for teachers' salaries during this fiscal year as it did in the last, both on an aggregate and individual teacher level. If there is a reduction in the local supplement in contravention of the terms of the general provisions of the Appropriations Act, the local school district is deemed ineligible for the increase in State Aid for Teachers' Salaries as provided by the General Assembly.

*5 Section 24–15–130, as previously discussed, requires that the schools operated by the Board of Youth Services be considered in the same light as schools operated by a school district for the purposes of administering school funds. Likewise, the teachers working in these schools, for the purposes of disbursing State aid salaries, are considered to be in the same position as teachers working for a school district, and that portion of their salary paid directly by the Department of Youth Services should be considered in the same light as a local salary supplement. Section 24–15–130 explicitly states that the Department of Youth Services 'shall receive funds from the State Department of Education under the same provisions as other public schools in South Carolina'. Certain provisions in the 1977–78 Appropriations Act, supra, specify certain conditions with which the public schools in South Carolina, through their school district, must comply in order to receive certain funds from the State Department of Education. As a matter of statutory construction, statutes in pari materia (on the same subject) must be construed together and reconciled, if possible, so as to render both operative. See Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376, 378

(1970). On these bases, it is the opinion of this office that the Department of Youth Services, like any other school district in the State, must comply with the stipulations, cited above, contained in the provisions of the 1977–78 Appropriations Act in order to be eligible for the increase in State Aid for Teachers' Salaries provided for by the General Assembly for the fiscal year 1977–78.

CONCLUSION:

For all administrative purposes, including the disbursement of school funds, the schools operated by the Board of Youth Services are the equivalent of schools operated by, and constituting, a local school district. With regard to schools under its jurisdiction, the Board of Youth Services operates as a district board of trustees. Teachers employed for these schools by the Department of Youth Services are considered to be employees of a school district for the purposes of administering State Aid to Teachers' Salaries; and that portion of the teachers' salaries paid directly by the Department of Youth Services is the equivalent of a 'local salary supplement.' Stipulations attached by the General Assembly to the use of increased amounts of State aid apply to the Department of Youth Services, the equivalent of a local school district, since the Department of Youth Services receives funds from the State Department of Education under the same provisions as other public schools.

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