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The State of South Carolina



Office of the Attorney General

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September 9, 1994

Carnell Hampton, Chairman
Clarendon School District No. 3
Post Office Drawer 270
Turbeville, South Carolina 29162

Dear Mr. Hampton:

By your letter of August 23, 1994, you have advised that the Board of Trustees of Clarendon School District No. 3 passed a policy which authorizes the superintendent of the school district to conduct disciplinary hearings as the Board's designee. Under the policy, parents and students have the right and are advised of the right to appeal the superintendent's decision to the Board of Trustees. You further advised that the right of appeal has been exercised on at least one occasion. You cited S.C. Code Ann. § 59-62-40 as authority for this procedure.¹ It has been suggested that the above procedure is violative of state law. You have asked about the legality of the appointment of the superintendent as the Board's designee to conduct hearings pursuant to the appropriate statute.

Discipline of students in the public schools is provided for in Article 3, Chapter 63 of Title 59. Suspension of pupils is authorized in § 59-63-220, which provides as to an administrator as the board's designee:

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school

¹ There is no § 59-62-40 in our Code of Laws. It is assumed for purposes of this opinion that the reference should be to S.C. Code Ann. § 59-63-240.

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A conference with the parent or legal guardian of the suspended pupil is provided in § 59-63-230, with the right to appeal the suspension to the board of trustees or to its authorized agent. Then, expulsion is provided for in § 59-63-240, which states in relevant part:

The board may expel for the remainder of the school year a pupil for any of the reasons listed in § 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. ... If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. ...
[Emphasis added.]

Rules of Statutory Construction

The primary objective of both the courts and this Office is to determine and effectuate the legislature's intent if at all possible to do so. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Words should be given their plain and ordinary meanings unless there is some reason within the statute requiring a different meaning to be applied. Field v. Gregory, 230 S.C. 39, 94 S.E.2d 15 (1955). In the absence of ambiguity, words must be applied literally. State v. Goolsby, 278 S.C. 52, 292 S.E.2d 180 (1982).

Discussion

The plain and unambiguous language of §§ 59-63-220 and 59-63-240 authorizes a school district board of trustees to hear a disciplinary matter and also authorizes the board of trustees to designate "any administrator" (§59-63-220) or "a person or committee" (§ 59-63-240) to make certain decisions in disciplinary matters, with an appeal to the board of trustees if the board did not hear the matter originally. The statutes do not limit the person or persons who may be designated by the board acting pursuant to § 59-63-240, though the designee under § 59-63-220 must be an administrator. The statutes do not prohibit the superintendent's appointment as the board's designee.

Conclusion

While the specific policy of the Board of Trustees of Clarendon School District No. 3 has not been presented to this Office for review, this Office is of the opinion that the

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policy as described above appears to be in compliance with the statutes on student discipline.

With kindest regards, I am

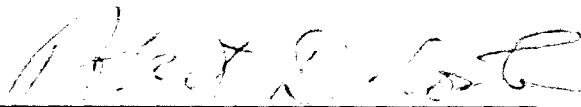
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



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