



Reg. 4860/05-5593

The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

April 20, 1995

The Honorable G. Ralph Davenport, Jr.  
Member, House of Representatives  
Post Office Box 1301  
Spartanburg, South Carolina 29304

Re: Informal Opinion

Dear Representative Davenport:

You have requested the opinion of this Office as to whether tax monies collected for equalization purposes among the School Districts of Spartanburg County may be used by the County Board of Education (County Board) for any purpose other than equalization. The types of expenses about which you have questions include salaries, administrative expenses and the purchase of real property.

Your questions relate to the following provisions of the 1962 Code of Laws of South Carolina for Spartanburg County which are quoted, in part, as follows:

Section 21-4021. In providing for the finances of the school system of Spartanburg County, the county board of education shall have as its primary objective equalization of funds available for the operation of all schools in the county.

Section 21-4022 (as amended by Act No. 186, 1963 Acts of Joint Resolutions, 217). There shall be levied a 13 mill tax to be applied uniformly to all property in the county to guarantee a minimum foundation program of public education to all children in the county . . . . The proceeds of this levy shall be credited by the county treasurer to the county board of education. The county board of education shall provide a formula to ensure each child attending public schools a minimum of \$225 per pupil.

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A previous Opinion of this Office reached the following conclusion about the duties of the County Board under Section 21-4021:

" . . . in providing for the finances of the school system under its control, [the Board] must make the equalization of funds for the operation of all of its schools the most important end toward which the Board's efforts are to be directed. Every other financial objective is secondary thereto. . . . " Ops. Atty. Gen. (July 1, 1969).

The Opinion further concluded, with reference to whether §21-4022 funds could be used for equalization, that the " . . . County Board ... may bring about further equalization through appropriate utilization of all funds at its complete disposal. . . . "

This Opinion continues to guide this Office because it is neither clearly erroneous nor has the applicable law changed in a way that would affect its conclusions. Ops. Atty. Gen. (October 3, 1986). Although the 1969 Opinion did not conclude that no expenditures could be made other than for equalization, the Opinion strongly emphasized that the primary objective in providing for finances for the school system was equalization. Other financial objective are "secondary" to equalization. Ops. Atty. Gen. (July 1, 1969).

In conclusion, under the previous Opinion of this Office, the County Board of Education must use the funds at its disposal for the primary objective of equalization of funding. "Every other financial objective is secondary thereto," and any expenditures such as the ones that you have noted would not be permissible unless consistent with that primary objective. Ops. Atty. Gen. (July 1, 1969).

This letter is an informal Opinion. It has been written by designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney only as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal Opinion.

If you need other information, please let me know.

Very truly yours,

  
J. Emory Smith, Jr.

Assistant Deputy Attorney General

JESjr./fg