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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

June 27, 1997

The Honorable Warren J. Jeffords  
Chairman  
Darlington County Board of Education  
P. O. Box 1117  
Darlington, South Carolina 29532

Dear Mr. Jeffords:

You have requested this Office's opinion regarding the status and constitutionality of Section 3 of Act No. 748 of 1978 and, more particularly, whether the provision that "the superintendent shall be appointed for a term of three years" can be interpreted to apply only to the initial appointment of a superintendent, or is it to be interpreted as requiring the Board to appoint the superintendent for a three year term not only initially but always and only for a three year term.

First of all, as we advised you previously, Section 3 of Act No. 748 of 1978 has neither been repealed nor amended since its passage. Additionally, the face of the law (the law as it reads) does not indicate any constitutional problems. The South Carolina Supreme Court has upheld many challenges to laws for particular school districts as special legislation because of the authority given to the General Assembly to provide for public education. See, Bradley v. Cherokee School District One, 470 S.E.2d 570 (S.C. 1996); Moye v. Caughman, 265 S.C. 140, 217 S.E.2d 36 (1975). Moreover, a court would uphold the law "... unless shown to violate the constitution clearly and beyond reasonable doubt." Hercules Inc. v. South Carolina Tax Comm., 274 S.C. 137, 262 S.E.2d 45 (1980).

In resolving your question concerning the superintendent's term, several fundamental principles of statutory construction are applicable. In interpreting any statute, the primary purpose is to ascertain the intent of the Legislature. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988). The Court must apply the clear and unambiguous terms of the statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). The full effect must

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be given to each section of a statute, giving the words used their plain meaning, and in the absence of ambiguity, words must not be added or taken from the statute. Home Bldg. & Loan Assn. v. City of Sptg., 185 S.C. 313, 194 S.E. 139 (1938).

With those principles in mind, it must be noted that the South Carolina Code of Laws as well as the Acts and Joint Resolutions are replete with enactments wherein the Legislature so specified when it has sought to distinguish between the duration of an initial term and subsequent terms of a particular office. In the absence of such distinction here, it is the opinion of this Office that the Legislature did not intend to differentiate between the superintendent's initial and subsequent terms of office. Additional support for this interpretation is found in the statute's sole mechanism for filling vacancies in the office of superintendent. In relevant part, Section 3 provides, "[v]acancies shall be filled by a majority vote of the board for the unexpired portion of the term." (Emphasis added.) By using the plural, "vacancies," the Legislature recognized that those who hold the office of superintendent may vacate their office prior to the conclusion of their three year term. The statute's use of the singular, "term," reinforces the Legislature's intent not to distinguish between the initial term and subsequent terms. Accordingly, it is our opinion that until the General Assembly amends or repeals Act No. 748 of 1978, the Darlington County Superintendent of Education must be appointed for a three year term.

With kind regards, I am


Very truly yours,



Paul M. Koch  
Assistant Attorney General

PMK/an

REVIEWED AND APPROVED BY:

  
Zeb C. Williams, III  
Deputy Attorney General

cc: The Honorable Edward E. Saleeby  
Senator, District No. 29