



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
 ATTORNEY GENERAL

September 30, 1997

David C. Eckstrom, Esquire
 Nexsen, Pruet, Jacobs and Pollard
 1441 Main St.
 Suite 1500
 Columbia, SC 29201

Dear David:

As Chairman of the Board of Lexington-Richland School District Five, you have asked for advice as to whether S.C. Code Ann §59-139-10 (Supp. 1996) or Reg. 43-261 (Vol 24 of the Code (Supp. 1996)) requires a school district to use a "strategic planning process" to develop annual updates to the District's comprehensive, long-range plan. In particular, you question whether a District must use committees with "outside facilitators" in developing the updates.

Section 59-139-10 and Reg. 43-261 are lengthy provisions addressing comprehensive, long-range planning. Although these provisions address components of the Plans, they do not set forth a procedure for a District to follow in developing its plan. As follows, Reg. 43-261 contains some broad guidance as to the development process, but sets forth no particular method that must be followed in that process:

Although no one single planning format is required, it should be understood that shared decision making is central to the formulation of a functional plan. Therefore, a cooperative consensus building approach should be used in the development of long-range school and district plans.

The regulation does not define or set forth requirements as to how "shared decision making" should be implemented. In the absence of any requirements in Reg. 43-261 as to who may share in the decision making, and given the absence of any related requirements in §59-139-10, the District appears to be given discretion to determine how to conduct the process. The above committee approach does not appear to be required.

David C. Eckstrom, Esquire
September 30, 1997
Page 2

You have asked whether District 5 may follow a procedure by which the District Superintendent would prepare an annual plan for the consideration of the Board and the public. The Board would then conduct town meetings to solicit public comment after which the Board would take formal action to adopt the update.

Fact questions are beyond the scope of opinions of this Office (Ops. Atty. Gen., December 12, 1983), but the above procedure, on its face, appears to be consistent with Reg. 43-261 and §59-139-10. The town meeting format appears to be a means by which the district can observe the above quoted guidance in Reg. 43-261.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney 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 have further questions, please let me know.

Yours very truly,


J. Emery Smith, Jr.
Assistant Deputy Attorney General

JESJr.