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The State of South Carolina



Office of the Attorney General

Opinion No 88-27
P/16

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ATTORNEY GENERAL

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May 2, 1988

Dr. Vance O. Johnson
District Superintendent
Newberry County Public Schools
Administrative Office
P. O. Box 718
Newberry, South Carolina 29108

Dear Mr. Johnson:

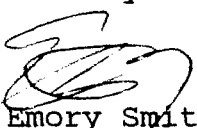
You have requested the advice of this Office as to whether the requirement that school districts (districts) "...maintain at least the level of financial effort (effort) per pupil for non-capital programs as in the prior year adjusted for an inflation factor..." would require a district to maintain an effort that included the payment of a budget deficit. §12-35-1557 of the Code of Laws of South Carolina, 1976. According to information supplied by the Department of Education, your district's §12-35-1557 funding requirements for the 1987-88 school year were calculated based upon the deficit level revenue of the district in 1986-87 plus an inflation factor. The payment of the deficit in the 1987-88 school year is in addition to this sum of the 1986-87 revenue and the inflation factor. Therefore, your question is whether the level of financial effort of 1987-89 to be maintained, with an inflation factor, in 1988-89 would include the deficit funding?

If this payment of the deficit were not included in calculating the 1988-89 school year funding level, funding level requirements for the district in 1988-89 would be based upon only the funding at deficit level in 1986-87 plus the inflation factors for both 1987-88 and 1988-89. In other words, funding requirements for the school district would be based upon a deficit level figure rather than upon a funding level reflecting a balanced budget. To use that deficit level figure for the §12-35-1557 requirements would be inconsistent with the conclusion of a previous opinion of this Office that found that a school district could avoid sanctions

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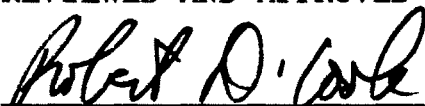
for failing to maintain §12-35-1557 funding levels during a school year if the district complied with funding levels in the subsequent school year. Ops. Atty. Gen. (January 12, 1988). Basing the §12-35-1557 requirements on a deficit level figure would also be inconsistent with the constitutional requirements for school districts and other political subdivisions to maintain balanced budgets. Art. X, §7, Constitution of South Carolina. In addition, I am informed that this use of a deficit level figure would not be in accordance with the interpretation of §12-35-1557 by the Department of Education. Because the Department of Education has monitoring and auditing responsibilities as to this provision (§12-35-1555), its interpretation is entitled to great weight. Dunton v. South Carolina Board of Examiners in Optometry, 291 S.C. 221, 353 S.E.2d 732 (1987). Therefore, this authority indicates that the §12-35-1557 funding level required to be maintained by the Newberry County Public Schools in 1988-89 should be based upon the 1987-88 level of financial effort that would include the payment of the 1986-87 deficit plus an inflation factor.

Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESJR/srcj

REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions