

The State of South Carolina



Office of the Attorney General

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August 4, 1987

The Honorable Charlie G. Williams
State Superintendent of Education
South Carolina Department of Education
Rutledge Building
Columbia, South Carolina 29201

Dear Dr. Williams:

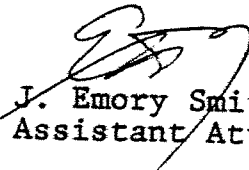
You have requested the advice of this Office as how to calculate the level of the per pupil financial effort that must be maintained by Dorchester County School District 4, the district formed by the consolidation of Dorchester County School Districts 1 and 3. Act 536, Acts and Joint Resolutions of South Carolina, 1986; see also, R. 293 and R.296 of 1987. Section 12-35-1557 of the Code of Laws of South Carolina, as amended, requires governing bodies of school districts to maintain "...at least the level of financial effort per pupil for noncapital programs as in the prior year adjusted for an inflation factor estimated by the Division of Research and Statistical Services." This section does not expressly provide for the application of its provisions to a newly consolidated district, but other guidance is available.

Under South Carolina law, a school district formed by the consolidation of two separate districts is a successor to the prior districts and assumes their assets and liabilities. §59-17-70 of the Code; Smythe v. Stroman, 251 S.C. 277, 162 S.E.2d 168 (1968); Walker v. Bennett, 125 S.C. 389, 118 S.E. 779 (1923); Ops. Atty. Gen., September 25, 1980. A reasonable application of the requirements of §12-35-1557 for the maintenance of per pupil expenditures to this succession of interests and duties indicates that the level to be maintained in the new school district would be equivalent to the total financial effort levels of the predecessor districts adjusted on a per pupil basis and with the addition of an inflation factor. Sutherland Statutory Construction, Vol. 2A, §51.02. Accordingly, such a figure could be determined by such means as adding the financial efforts for the predecessor districts and dividing that total by the total number of pupils in attendance in those districts and then adjusting for an inflation factor.

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If you have any questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr/srcj

REVIEWED AND APPROVED:



Robert D. Cook
Deputy Attorney General