



9332-9882

ALAN WILSON
ATTORNEY GENERAL

March 6, 2015

The Honorable Stephen L. Goldfinch, Jr.
Representative
District No. 108
P.O. Box 823
Murrells Inlet, SC 29576

Dear Representative Goldfinch:

You have requested the opinion of this Office on certain questions pertaining to the consistent districts of Charleston County. Specifically, you ask the following:

1. Are the eight constituent districts of Charleston County established by Act 340 of 1967 considered school districts by state law?
2. Are members of the eight constituent district boards of trustees considered "school trustees" as defined by state law?
3. If members of the constituent district boards of trustees are considered "school trustees" by state law, are they entitled to everything trustees of autonomous districts are such as SC School Boards Association membership and school board members license plates?
4. Do the constituent districts own the school properties that are in their name? (Example: St. James-Santee Elementary property was purchased after the passage of Act 340 of 1967. The owner is listed as Charleston County School District 1.)
5. Are constituent districts allowed to seek funding for themselves? (Example: Allowed to apply for a grant from the U.S. Department of Education.)
6. Are constituent board members subject to receive the same training required by state law for newly elected trustees?

Law / Analysis

By Act No. 340 of 1967 the Legislature consolidated the eight school districts of Charleston County into the Charleston County School District ("CCSD") and abolished the Charleston County Board of Education. Act No. 340 § 1, 1967 S.C. Acts 470 ("the Act" or "Act 340"). Upon consolidation, the areas of the respective eight school districts were kept as "special districts" for certain administrative purposes as set forth in the Act; the Act termed these "special districts" as "constituent districts." *Id.* Act 340 called for the boards of trustees of the former eight school districts to continue to serve as the boards of trustees for their constituent district and to "perform the functions delegated to and devolved upon trustees in the constituent districts *in this act.*" *Id.* (emphasis added). The Act specifies that the powers enumerated to the constituent district trustees are "subject to the appeal to the Board of Trustees of the Charleston County School District." *Id.* at § 7, 474.

Act 340 establishes that “the governing body of the Charleston County School District shall be a board of trustees which shall be composed of nine members each of whom shall be a qualified elector of the area he represents.” Id. at § 2, 470. The Act provides that “[i]n addition to the duties, powers, and responsibilities now provided by law for county boards of education, and for school district trustees other than those developed upon the constituent trustees in Sections 6 and 7 of this act, the Board of Trustees of Charleston County School District shall. . .” Id. at § 5, 472. The Act then enumerates the powers and duties provided within the Act to the Charleston County Board of Trustees. Id.

Important to addressing your questions are several principles of statutory construction. First and foremost, we note that “[a]ll rules of statutory construction are subservient to the maxim that legislative intent must prevail if it can be reasonably discovered in the language used.” State v. Pittman, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007) (citation omitted). “In interpreting statutes, the [c]ourt looks to the plain meaning of the statute and the intent of the Legislature.” State v. Dingle, 376 S.C. 643, 649, 659 S.E.2d 101, 105 (2008) (citation omitted). Furthermore, in ascertaining the intent of the Legislature, the “court should not focus on any single section or provision but should consider the language of the statute as a whole.” Mid-State Auto Auction of Lexington, Inc. v. Altman, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996) (citation omitted).

Amongst this background, we will answer your questions in the order that they were presented in your correspondence. We also note that this opinion is written specifically in relation to the constituent districts of Charleston County.

I. Question One

In response to your first question – are the eight constituent districts of Charleston County established by Act 340 of 1967 considered school districts by state law – we believe that they lack all of the characteristics of a school district and fall outside of the definition of “school district,” as provided by S.C. Code Ann. § 59-1-160 (2004). However, case law proves that the constituent districts within the CCSD have been treated as school districts in certain capacities consistent with the powers provided to them by the Act.

S.C. Code Ann. § 59-1-160 (2004) defines “school district” as “any area or territory comprising a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.” Chapter 17 of Title 59 is titled “School Districts” and further identifies the duties, powers, and functions of a school district. Summarizing a school district’s powers, albeit in an unpublished opinion, the United States District Court for the District of South Carolina explained that:

[i]t is true that the various school districts are allowed some freedom at the local level. District board members are elected by general election. Each district is a body politic and *corporate of the state* with a descriptive name designated by county or legislative act and a designated number for each district in the named county. S.C. Code Ann. 59-17-10. As such, they may sue and be sued, contract, and hold title to real and personal property. S.C. Code Ann. § 59-17-10.

Additionally, districts may levy taxes, provided a majority of the electors or voters approve. S.C. Code Ann. § 59-73-30. Districts may also incur general obligation debt, but only in such a manner and upon such terms and conditions as the General Assembly prescribes. S.C. Const. Art. X, § 15. However, it is apparent that these freedoms are very limited in scope and authority and are controlled by the General Assembly.

Stewart v. Laurens County Sch. Dist. No. 55, 1992 WL 12014673, *3 (D.S.C. Oct. 2, 1992) (emphasis in original). In determining whether the consistent districts of Charleston County are “school districts,” we will address the powers vested to the constituent districts, compared to those given to the CCSD by Act 340.

As noted above, Act 340 abolished the County Board of Education of Charleston County and established the CCSD which is governed by a county-wide board of trustees. Act No. 340 § 1, 1967 S.C. Acts 470. The powers given to the CCSD include those given to county boards of education by law and to school trustees not otherwise given to the constituent trustees of the eight constituent districts. Id. at § 5, 472, as amended. Separate from the powers given to the CCSD Board of Trustees, Act 340 provides the constituent district trustees with powers specifically enumerated in the Act, subject to appeal to the Board of Trustees of the Charleston County School District. See id. at § 1, 470; § 6-7, 474. As it has been summarized, “[t]he CCSD Board of Trustees was given sole power to adopt budgets, raise taxes, and disburse funds; to purchase and sell land; to build, maintain, and demolish schools; and to purchase services, equipment, and supplies. It was given the authority to determine curricula and set county-wide policy for the instructional program.” U.S. v. Charleston County School Dist., 960 F.2d 1227, 1241 (D.S.C. 1992) (J. Sprouse dissent); see Act No. 340 § 5, 1967 S.C. Acts 472. Separate from the CCSD trustees, the constituent district trustees were given administrative duties of employing teachers as well as assigning, transferring, and disciplining students. Id.; see Act No. 340 § 6-7, 1967 S.C. Acts 474. Since Act 340’s enactment, the powers of the constituent districts have been reduced; ultimately, in 2007 Sections 6 and 8 of the Act were deleted, and the CCSD Board was vested with complete power to employ and assign teachers and personnel for the efficient operation of the schools as well as complete control over the appointment of principals. Act No. 131, 2007 S.C. Acts 1390-91.¹

Furthermore, in Stewart v. Charleston County School Dist., 386 S.C. 373, 379-80, 688 S.E.2d 579, 582 (Ct. App. 2009) our Court of Appeals expressly recognized that the powers of the constituent districts of Charleston County are limited to those listed in the Act when it was asked to consider whether a Charleston County constituent district had authority to set attendance guidelines of Buist Academy, a county-wide magnet school established by the CCSD

¹ Sections 5 and 6 of Act 340 were amended in 1978 to provide that the power to appoint principals of all schools, amongst three recommendations provided from the trustees of the constituent district, was vested in the trustees of the CCSD. Act No. 721, 1978 S.C. Acts 2370-71. Thereafter, Act No. 131 of 2007 deleted language allowing the constituent district to recommend three qualified persons for appointment as principal. Act No. 131, 2007 S.C. Acts 1390-91. In addition, Act 131 of 2007 deleted Section 6 and 8 of Act 340 altogether, and the power to employ and assign teachers and other personnel for the efficient operation of the schools was also entirely vested to the CCSD. Act No. 131, 2007 S.C. Acts 1390-91.

for intellectually gifted children. Concluding that the constituent district did not have this authority, the Court noted that:

the consistent districts only have the powers bestowed upon them by the Act in Sections 6 and 7. *See* Act No. 340, § 5, 1967 S.C. Acts 470 (“In addition to the duties, powers and responsibilities now provided by law for county boards of education, and for school district trustees other than those devolved upon the consistent trustees in Sections 6 and 7 of this act, the Board of the Charleston County School District shall....”). Those powers granted to the constituent districts are subject to appeal to the CCSD. *See* Act No. 340, § 7, 1967 S.C. Acts 470 (“The trustees in each of the constituent districts shall have the power in their respective districts, subject to the appeal to the Board of Trustees of the Charleston County School District....”). Therefore, because section 7(1) does not empower the District 20 Board to set attendance guidelines at Buist Academy, that authority is vested in the CCSD.

Id. at 379-80, 688 S.E.2d at 582.

The Fourth Circuit has also summarized the dichotomy of powers existing between the CCSD Trustees and the trustees of the constituent districts in United States v. Charleston County Sch. Dist. as follows:

[m]ost fiscal and administrative powers and responsibilities previously held by the eight school districts were absorbed by the CCSD. Most notably, the CCSD was empowered to distribute county tax revenues evenly among the eight districts in an effort to alleviate the unequal tax bases then existing among the districts. The eight districts continued their existence and were labeled “constituent districts.” Under Act 340, the constituent districts retained their independent boards of trustees and independent administrative authority over teacher and pupil assignments and student discipline.

United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1230 (4th Cir. 1992) (footnotes omitted).

In effect, the Act primarily shifted certain fiscal powers to the CCSD trustees while the eight Constituent Districts, in large part, retained local control over their respective schools, *i.e.* student and teacher placement and student discipline. United States v. Charleston County Sch. Dist., 738 F.Supp. 1513, 1534 (D.S.C. 1990), *vacated in part by*, 960 F.2d 1227 (4th Cir. 1992) (“Plaintiffs contend that the Constituent Districts were newly created by the General Assembly, but the language of the Act, as well as the testimony of the legislators regarding the intent of the Act, indicates that they were, in reality, nothing more than the continuation of the eight separate districts minus certain fiscal powers”); United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1233 (4th Cir. 1992) (“[T]he district court treated the constituent districts as separate political entities and the powers vested in them as important, separate and apart from the responsibilities of the CCSD. This finding is not clearly erroneous. The local determination of school attendance zones and student discipline is a tradition as rich as the neighborhood school

itself”) (internal citations omitted); Stewart v. Charleston County Sch. Dist., 386 S.C. 373, 376-77, 688 S.E.2d 579, 581 (Ct. App. 2009) (“The eight individual districts . . . called constituent districts, remained in existence under the umbrella of the CCSD with the authority to control certain aspects of the running of their own districts”). Analysis of the powers particular to the Charleston County constituent districts as compared to the powers of the CCSD illustrate that the constituent districts have been vested with certain powers particular to a school district, however they are in no way autonomous entities.

In particular to the statutory definition of school district, it is also our opinion that the constituent districts do not meet all of the definition’s components that we believe portrays an autonomous school district. Again, to meet the definition, the district must be an “area or territory comprising of a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.” S.C. Code Ann. § 59-1-160 (2004). Most obvious, we do not believe the individual constituent districts of Charleston County constitute a “complete tax unit” as is required. In a prior opinion of this Office we addressed the “complete tax unit” requirement. See Op. S.C. Att’y Gen., 1982 WL 154975 (Feb. 12, 1982). In application of the “school district” definition to the entity that was the subject of that opinion, we noted that “to satisfy the definitional requirement of a school district, there must be the power to levy and collect tax as a ‘complete tax unit.’” Id. at *1. Act 340 makes clear that the power to levy taxes rests with the Board of Trustees of the CCSD, and that the taxes imposed shall be “upon all taxable property in the [Charleston County School] district.” Act No. 340 § 10, 1967 S.C. Acts 475. Accordingly, because the constituent districts of Charleston County lack this component of the definition’s requirement, and arguably others, we believe a court would find that the constituent districts of Charleston County do not classify as “school districts” as defined by S.C. Code Ann. § 59-1-160 (2004).

It is important to address that the constituent districts of Charleston County have been identified and treated as independent school districts in U.S. v. Charleston County School District, 738 F. Supp. 1513 (D.S.C. 1990), *vacated in part by*, 960 F.2d 1227 (4th Cir. 1992), *remand* 856 F. Supp. 1060 (D.S.C. 1994). We have previously summarized this District Court case, its appeal, and remand in a former opinion of this Office, and will do the same here. See 2004 WL 439323 (Feb. 20, 2004). In this case, the United States brought suit against the Charleston County School District and other state officials alleging a failure to eliminate a racially segregated school system in Charleston County. U.S. v. Charleston County School District, 738 F. Supp. at 1515-16. The United States argued that Act 340 should be disregarded in desegregating the District while the Defendants denied intentional discrimination and argued that the *de jure* segregated system had been fully removed. Id. The Defendants sought a declaration from the Court that the Charleston School District had been completely desegregated, and requested that the District be declared a “unitary” school district. Id.

In its ruling, the District Court concluded that the Defendants had fulfilled their duty to eliminate the dual school system that existed in Charleston County prior to 1954. Id. at 1544. Important to this opinion, the Court rejected the United States’ argument that the disparity between blacks and whites should be viewed with reference to the total percentage of black and white enrollment in the *Charleston County School District*. Id. at 1533-36. Alternatively, it

treated each of the eight constituent districts as separate, independent school districts for purposes of making its determination, noting that:

[e]ffective July 1, 1968, Act 340 vested certain duties and responsibilities in the newly created CCSD, but left responsibility for student assignments and faculty hiring in the eight separate Constituent Districts in which such responsibility had previously been vested. Plaintiffs contend that the Constituent Districts were newly created by the General Assembly, but the language of the Act, as well as the testimony of the legislators regarding the intent of the Act, indicates that they were, in reality, nothing more than the continuation of the eight separate districts minus certain fiscal powers. The exact same members of the boards of trustees remained in office. Act 340, Section 1. Future members of the Constituent District boards were to be elected in exactly the same manner as they were before Act 340. The Constituent Districts had exactly the same territories and authority over, among other things, student assignments and faculty hiring as the former eight school districts. Some of their other powers, primarily fiscal in nature, were removed and placed in the newly created CCSD.

. . . . The mere enactment of Act 340 did not require a wholesale shifting of students and teachers to meet a newly defined countywide standard for racial balance and was never understood to do so by any of the authorities involved

Id. at 1534.

Thus, the Court concluded that while the makeup of students and faculty in certain schools might be racially disproportionate if measured against the District as a whole, the District Court viewed each of the constituent districts as independent school districts thereby concluding each was desegregated. Id.

The Fourth Circuit Court of Appeals affirmed the District Court's ruling in large part, and importantly to this analysis, on the conclusion that the constituent districts were properly desegregated by looking to each constituent district independently. United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1233 (4th Cir. 1992). In other words, the Fourth Circuit affirmed that the requirement that each constituent district reflect the racial makeup of the CCSD as a whole was not necessary. Id. The 4th Circuit, in its support of the District Court's recognition of the individual identity of the eight constituent districts, stated that:

appellants' claim is simply that there is only one school district in Charleston County—the CCSD—and that the eight constituent districts are merely shams. On this issue, the district court treated the constituent districts as separate political entities and the powers vested in them as important, separate and apart from the responsibilities of the CCSD. *See Charleston County*, 738 F.Supp. at 1525. This finding is not clearly erroneous. The local determination of school attendance zones and student discipline is a tradition as rich as the neighborhood school itself. "No single tradition in public education is more deeply rooted than local control over the operation of schools; local autonomy has long been thought

essential both to the maintenance of community concern and support for public schools and to [the] quality of the educational process.” *Milliken*, 418 U.S. at 741–42, 94 S.Ct. at 3125–26; see *Wright v. Council of Emporia*, 407 U.S. 451, 469, 92 S.Ct. 2196, 2206, 33 L.Ed.2d 51 (1972); *San Antonio Independent Sch. Dist. v. Rodriguez*, 411 U.S. 1, 50, 93 S.Ct. 1278, 1305, 36 L.Ed.2d 16 (1973).

The inquiry of whether the schools of Charleston County are in compliance with their affirmative duty to eliminate all vestiges of dual schooling is focused on each constituent district. Each constituent district has the authority to assign pupils to a particular school. Appellants argue that creation of the CCSD to oversee certain administrative functions and tax revenue distribution resulted in the consolidation of the entire county into one single district. Were this the case, each state would be classified as one district. State governments fulfill crucial administrative roles over their schools. In the present case, the State defines what may comprise a school district, see S.C.CODE ANN. § 59–1–160 (1990); sets standards for local school boards and boards of trustees, see *id.* §§ 59–1–340, 59–1–350; and governs the disbursement of state funds to the districts, see *id.* § 59–20–40. If existing districts remain undisturbed, the creation of additional powers in state government or in administrative units such as the CCSD does not merge the existing districts into a new large district. There is no precedent for such a drastic holding: the Supreme Court has specifically rejected this argument when made in favor of an interdistrict desegregation order. See *Milliken*, 418 U.S. at 749, 94 S.Ct. at 3129 (Accepting *arguendo* the derivative responsibility of the State for the actions of a political subdivision of the State causing segregation does not lead to the conclusion that an interdistrict remedy is appropriate).

Id.

Although Act 340 took no action to dismantle the eight districts for the purposes of student and teacher assignments, the Court found that in neglecting to do so, there was no discretionary intent on behalf of the legislature. *Id.* at 1234. Thus, the court affirmed the District Court, holding that “[t]he district court rulings that the eight constituent districts are separate and distinct and that Act 340 was not enacted with discriminatory intent are AFFIRMED.” *Id.* While the Court remanded the case to the District Court with respect to clarity as to what constitutes a valid reason for interdistrict transfers within the eight constituent districts, the analysis important to the questions you have asked us to consider was affirmed.

From the discussion above, it is our opinion that the eight constituent districts lack the complete makeup of an autonomous school district and therefore they do not meet all components of the definition of a school district as defined by S.C. Code Ann. § 59-1-160. Put differently, it is our opinion that this definition describes an autonomous school district, which the constituent districts of Charleston County are not. However, the District Court’s holding in United States v. Charleston County Sch. Dist., as affirmed in part by the Fourth Circuit Court of Appeals, indicates that each of the eight Constituent Districts have certain powers unique to school districts, notably local powers related to student assignment and discipline. In turn, this has led to their treatment as school districts in so far as their powers afford by Act 340.

II. Question Two

In regards to your second question – are members of the eight constituent district boards of trustees considered “school trustees” as defined by state law – we believe that a court would find that they have been given certain functions of school trustees by Act 340, but are limited to those powers enumerated by the Act. Chapter 19 of Title 59 of the South Carolina Code is titled “School Trustees.” While the term “school trustee” is not defined therein or elsewhere in the Code, the first section of Title 59, Chapter 19 provides that “[e]ach school district shall be under the management and control of the board of trustees provided for in this article, subject to the supervision and orders of the county board of education.” S.C. Code Ann. § 59-19-10 (2004 & Supp. 2014).

As addressed above, Act 340 abolished the Charleston County Board of Education, established a county-wide Charleston County School District, and developed “special districts” under the title of “constituent districts” derived from the eight former local school districts. Act No. 340 § 1, 1967 S.C. Acts 470. The trustees of the former eight school districts were retained as the trustees of the constituent districts to “perform the functions delegated to and devolved upon trustees in the consistent districts in this act.” Id. As discussed above, these powers are now provided in Section 7 of the Act and pertain to local matters, *i.e.* student assignment, transfer, and discipline. See id. at § 7, 474. Except for the specific powers given to the constituent districts’ trustees in Section 7 of Act 340, the trustees of the CCSD have the powers provided to school district trustees. Id. at § 5, 472. In addition, they have the powers specifically provided by Act 340 as well as those provided by law for County Boards of Education. Id.

From analysis of Act 340, it is evident that the CCSD Board of Trustees operates in large part as a County Board of Education with the additional powers, primarily financial, formerly held by the eight school districts of Charleston County. The Constituent Districts in large part operate as local school districts, with certain control at the local level over the schools in their district, absent the financial powers transferred to the CCSD by Act 340. As discussed in Question One, although the constituent districts lack all of the powers of a school district, they have been recognized as school districts in so far as their powers afford. It is our opinion that the same recognition would be provided to the trustees of the constituent districts in analysis of whether they constitute as “school trustees” as referenced in the Code. Thus, we believe the constituent districts’ board of trustees would be considered school trustees in so far as the specific powers afforded to them under Section 7 of Act 340 permit.

III. Question Three

Your third question asks if members of constituent district boards of trustees are considered “school trustees” by state law, are they entitled to everything trustees of autonomous districts are entitled to such as SC Boards Association memberships and school board member license plates. As referenced in Question Two, it is our opinion that the trustees of the constituent districts would likely constitute as school trustees as referenced in the South Carolina Code in so far as their specific powers afford. Therefore, while generally our conclusion in Question Two would lead to an affirmative answer to your question here, we caution that a case-

by-case basis analysis would be required to ensure that any “entitlements” are consistent with the powers enumerated within the Act for the constituent district trustees.

IV. Question Four

In regards to your fourth question – do the constituent districts own the school properties that are in their names – we believe the Supreme Court’s analysis in Smyth v. Stroman, 251 S.C. 277, 162 S.E.2d 168 (1968) indicates that they do not. In Smyth, the Supreme Court addressed the effect of consolidation on the obligation for the bonded indebtedness of the CCSD’s constituent districts. Id. Specifically, the Court addressed the constitutionality of Section 11 of Act 340, which provided that, upon consolidation, the consolidated district (CCSD) would not assume the outstanding bonded indebtedness owed by the individual constituent districts. Id. at 286, 162 S.E.2d at 172. Deciding Section 11 should be struck from the Act, the Court relied on what is currently S.C. Code Ann. § 59-17-70, which states:

[u]pon consolidation of any two or more school districts, all property, real and personal, and all assets of the districts forming the consolidated school district shall become property of the consolidated districts and all liabilities of the consolidating districts shall become the obligations of such consolidated district. Each such consolidated district shall be a body politic and corporate and its board of trustees shall have such powers as are provided by law.

S.C. Code Ann. § 59-17-70 (2004).

In explaining its conclusion that upon consolidation the liabilities of the original districts were to be assumed by the CCSD, the court reasoned that:

the general law supports the proposition that upon a consolidation of school districts whereby the consolidated district *succeeds to all of the assets of the former districts*, then in that event the consolidated district likewise assumes all liabilities and obligations of the constituent districts. A sense of fair play recommends this result because the taxpayers of the former school districts, as such *are divested of their property*, which passes to the consolidated district, and it would seem to follow that the consolidated district should assume their obligations, most of which have been incurred for the construction of school facilities.

Id. at 285, 162 S.E.2d at 171 (emphasis added). As Smyth’s ruling specifically provides that S.C. Code Ann. § 59-17-70 applies to the CCSD as a consolidated district, it is our opinion that all real and personal property and all assets of the former eight school districts forming the CCSD became the property of the CCSD upon consolidation.

V. Question Five

Your fifth question asks whether constituent districts are allowed to seek funding for

themselves, and you provide, as an example, application for a grant from the U.S. Department of Education. As we have discussed in detail above, the eight constituent districts of the CCSD are bound to the powers provided to them by Act 340, as amended. Our Court of Appeals has reaffirmed this conclusion in Stewart v. Charleston County Sch. Dist., stating precisely that “the consistent districts only have the powers bestowed upon them by the Act. . . .” Stewart v. Charleston County Sch. Dist., 386 S.C. 373, 379-80, 688 S.E.2d 579, 582 (Ct. App. 2009). As application for aid – be it county, state, or federal – is not a power or duty specifically given to the constituent districts of Charleston County, it appears that this responsibility rests with the CCSD. Regardless, even if an application was made and funding was received, Act 340 makes clear that disbursement of the funds must be made by the CCSD. See Act No. 340 § 5(12), 1967 S.C. Acts 473 (stating that the Board of Trustees of the CCSD Shall: “Provide for the disbursement of all county, state, and federal educational funds received by the county or by any constituent district in the county”). A conclusion that application for funding can be made by the constituent districts also appears to contrast with Section 5(6) of the Act, which provides in part that the trustees of the CCSD are empowered to “borrow in anticipation of the collection of taxes, state aid, or federal aid.” Id. at § 5(6), 473.

Because Section 7 of the Act is silent as to the constituent districts’ ability to seek funding, we believe a court would find that they cannot apply for funding on their own behalf.² Even if an application was made and aid was received by a constituent district, any disbursement would undoubtedly be controlled by the CCSD.

VI. Question Six

Finally, your sixth question asks whether constituent board members are subject to receive the same training required by state law for newly elected school trustees. S.C. Code Ann. § 59-19-45 (2004), titled Orientation for school district boards of trustees and county boards of education, requires that

[w]ithin one year of taking office, all persons elected or appointed as members of a school district board of trustees after July 1, 1997, shall complete successfully an orientation program in the powers, duties, and responsibilities of a board member including, but not limited to, topics on policy development, personnel, superintendent and board relations, instructional programs, district finance, school law, ethics, and community relations.

S.C. Code Ann. § 59-19-45(A) (2004). Furthermore, Subsection (C) of this Section extends this requirement to members of county boards of education appointed or elected after July 1, 1997. S.C. Code Ann. § 59-19-45(C) (2004). While it is important to reiterate that the constituent district trustees only have limited powers and obviously not all portions of the orientation would be relevant to their position, the powers that they do have are those provided to a school trustee. In addition, it is our opinion that the plain language of S.C. Code Ann. § 59-19-45 indicates that its purpose is to familiarize local and county school boards of education on their powers, duties,

² But see Act No. 189, 2005 S.C. Acts 1924 (distinguishing that “[a] charter school in Charleston County may apply for a grant on its own”).

and responsibilities. As such, we believe a court would find orientation, as specified in S.C. Code Ann. § 59-19-45, would be required for the trustees of both the CCSD and the constituent districts. Also from a practical perspective, it appears the benefit of attending the orientation would outweigh the potential detriment of not having received pertinent information relative to the position of a constituent district trustee.

Conclusion

While your questions of statutory interpretation are difficult, and as a result our conclusions on how a court would likely rule are not free from doubt, we believe that they comport with the Legislature's intent in passing Act 340. As we noted in a prior 1968 opinion of this Office,

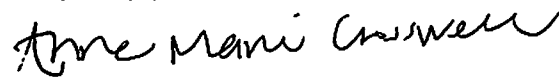
the undoubted purpose of Act No. 340 was to consolidate school districts in Charleston County for a centralized purpose. At the same time, the [G]eneral Assembly carefully placed in the constituent districts certain specific authority In certain areas, the authority of the central School Board is paramount and exclusive; in other areas, as indicated, authority is vested in the trustees of the constituent districts. The supervisory authority of the central School Board in matters relating to pupil assignments. . . is not remarkably different from that vested by the general law in county boards of education, vis a vis the power vested in completely autonomous school districts within a county.

Op. S.C. Att'y Gen., 1968 WL 12733 (Aug. 8, 1968).

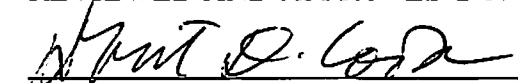
What is paramount to the conclusions reached in this opinion is that the constituent districts and their trustees are limited to the statutory powers provided to them by Act 340 of 1967, as amended. Thus, it is our belief that the powers, duties, and entitlements of the constituent districts of Charleston County should be construed in line with the powers they have been afforded. Again, we reiterate that this opinion is not conclusive as questions of statutory interpretation can only be definitely answered by a court of law or the Legislature itself.

Should you have any further questions, please do not hesitate to contact our Office.

Very truly yours,


Anne Marie Crosswell
Assistant Attorney General

REVIEWED AND APPROVED BY:


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