1981 WL 157834 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
June 25, 1981

***1 RE: Requested Attorney General's Opinion**

Mr. William A. Pollard
Attorney at Law
Post Office Box 2426
Columbia, South Carolina 29202

Dear Mr. Pollard:
On behalf of the Lexington County Board of Education, you have requested an opinion of this office as to the constitutionality of § 59-19-510, Code of Laws of South Carolina, 1976, in specific regards and, generally, as to the constitutionality of sixteen other state statutes in the area of education. Specifically, with regard to § 59-19-510, you have asked, 'May the County Board of Education, as an elected body, constitutionally exercise 'appellate' powers of review over the quasijudicial decisions of a district board, another elected body?' Sections 59-19-510 through 59-19-580 provide a comprehensive mechanism for the determination and appeal, both administratively and judicially, of local controversies involving school matters. Public education in general is a state function, and the authority of the General Assembly with regard to public education is plenary. Article XI, § 3, Constitution of South Carolina, 1895, as revised; Walpole v. Wall, 153 S.C. 106, 149 S.E. 760 (1929); and Moye v. Caughman, 265 S.C. 140, 217 S.E.2d 36 (1975). Thus, unless a specific limitation appears in the State Constitution, the General Assembly possesses practically unlimited authority and discretion in providing for public schools.

You state in your opinion request that § 59-19-510 has been upheld as constitutional in a challenge to that statute pursuant to Article I, § 8 of the State Constitution (Separation of Powers) in Willow Consolidated High School District v. Union School District No. 46 of Orangeburg County, 216 S.C. 445, 58 S.E.2d 729 (1950). So, your question appears to be whether the statute is in some manner deficient in providing for County Board of Education appellate review over 'quasi-judicial' decisions of a district board.

For County Boards of Education to exercise appellate jurisdiction over decisions rendered by a local school district does not appear to be unusual. The following excerpt from 78 C.J.S. School Districts § 99(3), which includes numerous citations, states general law applicable here:
Where authorized by statute, a County Board of Education may sit as a tribunal to hear and decide certain cases, as in the case of appeals from decisions of the County Superintendent. A person aggrieved by the decision of a County Board of Education has been allowed to go directly to the Courts, but the remedy ordinarily is by appeal to state school officers, as discussed supra § 91, and the County Board is not an 'inferior court or jurisdiction' within a statute providing for appeal to the circuit court of the county from a judgment rendered by a magistrate's court, county commissioners, or other 'inferior court or jurisdiction.'

Certainly, County Boards of Education should not be deemed an inferior court or jurisdiction. Willow Consolidated High School District v. Union School District No. 46 of Orangeburg County, supra. In another case involving a question of the right to appeal to a Court of Common Pleas from a decision of a County Board of Education, the Court had the following to say as to the duty of County Boards of Education pursuant to the statute in question, 'It is not an inferior court or jurisdiction, for the duties conferred upon it are purely administrative in character.' Turner v. Joseph Walker School District No. 9, 215 S.C. 472, 56 S.E.2d 243 (1949). Turner is also cited as authority in the excerpt from C.J.S. quoted hereinabove.

***2** Based upon the authorities discussed, the appellate review carried out by County Boards of Education pursuant to § 59-19-510, remains administrative in nature, as opposed to being strictly quasi-judicial. In that the County Board of Education acts with express authority pursuant to § 59-19-510, and such action does not appear to directly conflict with any state constitutional provision, the opinion of this office is that the authority granted pursuant to § 59-19-510 is within the plenary powers of the General Assembly and, therefore, valid.

You have further requested the opinion of this office in response to the following question, 'In the above situation, are the following statutes valid according to constitutional principles-S.C. CODE ANN. §§ 59-15-40, 59-1-340, 59-19-510, 59-19-60, 59-63-510, 59-25-750, 59-19-10, 59-17-50, 59-63-510, 59-19-250, 59-73-40, 59-29-20, 59-29-110, 59-71-30, 59-25-10, and 59-19-160 (1976)?' Given that this opinion has found that § 59-19-510 appears to be constitutional, the burden of weighing each of the above numerated statutes is unduly difficult, if not impossible. Without specific facts arising from a meaningful controversy, this office will not be able to render an opinion as to the constitutionality of the statutes in question, upon the bare face of each individual statute. For example, § 59-1-340 merely provides for the time, place, and manner for conducting meetings of a County Board of Education. While your concern in this matter is understood and appreciated, this office does not feel that an opinion beneficial to the public in general or the Lexington County Board of Education can be rendered on this statute. This position holds true with the remaining statutes enumerated in your question.

I trust that you understand this office's position on this matter; moreover, I trust that the opinion stated in response to your first question will be of benefit to you.

With kindest regards,
Sincerely,

Paul S. League
Assistant Attorney General

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