

1980 WL 120749 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 26, 1980

\*1 Mr. Carl A. Clayton  
Dean  
USC-Salkehatchie  
Post Office Box 617  
Allendale, South Carolina 29810

Dear Mr. Clayton:

You have requested that this office advise you as to whether the Allendale County Board of Education may convey real property to the Western Carolina Higher Education Commission. The Allendale County Board constitutes the Board of Trustees for the Allendale County School District and has all the powers given to school trustees. Act 1064, Acts and Joint Resolutions of South Carolina, 1974. It also has all the powers given to county boards of education. Id.

[Section 59-19-250 of the Code of Laws of South Carolina \(1976\)](#) provides as follows:

The School Trustees of the several school districts may sell or lease school property, real or personal, in their school districts whenever they deem it expedient to do so and apply the proceeds of any such sale or lease to the school fund of the district. The consent of the County Board of Education or, in those counties which do not have a County Board of Education, the governing body of the County, shall be first obtained by the Trustees desiring to make any such sale or lease. The Board of Trustees, within thirty days after making such sale or lease, shall send a report thereof to the County Board of Education or, in those counties which do not have a County Board of Education the governing body of the County, setting forth the terms and amount of the sale or lease.

This statute permits the sale under the terms and conditions described, however, because the Allendale County Board has the powers of both county boards of education and school boards of trustees, it has sole authority here to consent to the sale. See Opinion of Attorney General McLeod, October 8, 1973. If the Board members consider that the transaction is in the District's interest, they are not required to receive fair market value for the property. See 1976-77 Op.'s Att'y Gen. No. 77-75, p. 69.

[Section 59-57-40 of the Code](#) gives the Western Carolina Higher Education Commission the power to accept and hold the property conveyed. This section, in part, allows the Commission to enter into contracts, make binding agreements and hold title to real and personal property. It should be read with reference to the purposes of the Commission which include the establishment of facilities to offer standard freshman and sophomore college courses and such other courses as are deemed desirable. See § 59-57-30.

The opinion of this office is that the County Board of Education may convey real property to the Western Carolina Higher Education Commission at nominal consideration if such conveyance is in the interest of the School District.

Very truly yours,

J. Emory Smith, Jr.  
Assistant Attorney General

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