

1979 S.C. Op. Atty. Gen. 67 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-51, 1979 WL 29057

Office of the Attorney General

State of South Carolina

Opinion No. 79-51

March 13, 1979

***1 SUBJECT: Education: School Districts; County Board of Education;**

(1) School trustees must obtain the consent and approval of the county board of education or the governing body of the county if there is no county board of education before making a sale of public school property. State law does not proscribe the specific manner of such sale of property.

(2) A school trustee, pursuant to [§ 59-69-260 of the Code of Laws of South Carolina, \(1976\)](#), is not permitted to participate in the purchase of school property.

TO: School Board Attorney
Spartanburg County

QUESTIONS:

(1) Is a school district required by law to sell real property in any particular manner?

(2) Is a school trustee permitted to participate in the sale of school property?

STATUTES AND CASES:

[§§ 59-19-250 and 59-69-260, Code of Laws of South Carolina, 1976](#); [Jones v. S.C. State Hwy. Dept.](#), 247 S.C. 137, 146 S.E. 2d 166; 1974-75 Op. Atty Gen. No. 4044; 1975-76 Op. Atty Gen. No. 4266.

DISCUSSION:

(1) [§ 59-19-250, Code of Laws of South Carolina, 1976](#), (formerly § 21-238 of the 1962 Code of Laws) provides:

The school trustees of the several school districts may sell or lease school property, real or personal, in their school district 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 any 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.

The board of trustees may sell or lease, but may not donate school property and whatever amount is approved by the county board of education and the school trustees is the price at which the property must be sold. See 1974-75 Op. Atty Gen. No. 4044, dated July 2, 1975. The statute does not designate a specific manner by which the sale of school property is to be accomplished, only that such sale must have the consent and approval of the county board of education or other governing body of the county.

This office has previously approved the sale of public school property by auction. See attached letter of Staff Attorney Dave Eckstrom to the S. C. Auctioneer's Commission, dated June 12, 1978.

(2) § 59-69-260, Code of Laws of South Carolina, 1976, states that:

It shall be unlawful for any county treasurer, county auditor, member of a county board of education or school trustee to buy, discount or share, directly or indirectly, or be in any way interested in any teachers pay certificate or other order on a school fund, except such as are payable to him for his own services, or for any school trustee to make any contract or be pecuniarily interested, directly, in any contract with any school district of which he is trustee. If any of the officers aforesaid shall violate the provisions of this section he shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not less than one hundred dollars nor more than five hundred dollars, to be used for school purposes in his county, and shall be imprisoned not less than three months nor more than twelve months, either or both. He shall also forfeit the amount of such claim or of his interest in such claim.

*2 The intention of the legislature controls in statutory construction and where the words used are clear and unambiguous, the courts apply them accordingly to their literal meaning. Jones v. S.C. State Hwy. Dept., 247 S.C. 137, 146 S.E. 2d 166. The words 'any contract' should include by their ordinary meaning a contract for the sale of land. It would be difficult to separate a trustee's personal interest from his interests as a public official in a sale of school property. Therefore, it is the opinion of this office, based upon the applicable wording of the above statute, that a school trustee is prohibited from participating in the purchase of school property. See 1975-76 Op. Att'y Gen. No. 4266.

CONCLUSION:

The board of trustees of a school district may sell school property in any manner approved by the county board of education or, in those counties which do not have a county board of education, the governing body of the county. Furthermore, a school trustee, pursuant to § 59-69-260 is prohibited from participating in the purchase of such land from said school district.

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