

1977 S.C. Op. Atty. Gen. 168 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-219, 1977 WL 24561

Office of the Attorney General

State of South Carolina

Opinion No. 77-219

July 12, 1977

*1 TO: Mr. Robert D. Floyd, ACSW
Interim Commissioner
South Carolina Department
Of Social Services

QUESTION

What is the authority of the State Department of Social Services with respect to the County Departments of Social Services?

AUTHORITIES

[45 C.F.R. § 205.100.](#)

§ 43-1-10, et seq., Code of Laws of South Carolina (1976) [State Department and Board of Social Services].

§ 43-3-10, et seq., Code of Laws of South Carolina (1976) [County Departments and Boards of Social Services].

79 Am. Jur. 2d, Welfare Laws § 50.

DISCUSSION

You have requested an opinion concerning the authority of the State Department of Social Services with respect to the County Departments of Social Services. It is clear from a reading of § 43-1-10, et seq., Code of Laws of South Carolina (1976), those statutory provisions dealing with the State Department and State Board of Social Services, that the Legislature created the State Department to coordinate, direct and oversee the welfare programs of the State. § 43-1-80 provides that the State Department shall ‘supervise and administer public welfare activities and functions of the State’, and that it may adopt all necessary rules and formulate policies not otherwise fixed by law, so that delegated responsibilities might be carried out effectively. § 43-1-90 emphasizes that the State Department of Social Services shall make rules and regulations so that assistance will be administered uniformly throughout the State. The section also specifically provides:

‘All such rules and regulations made by the State Department shall be binding upon the county departments and shall be complied with by them.’ (Emphasis added).

§ 43-3-10, et seq., Code of Laws of South Carolina (1976), those statutory provisions dealing with the county departments and Boards of Social Services, make it clear that the county boards and departments are directly responsible to the State Department. The county boards are subject to the rules and regulations of the State Department and they may adopt rules of procedure only if the State Department has not promulgated uniform rules for all county boards. § 43-3-30. The duties and powers of the county boards are set forth in § 43-3-60. This section states that the county boards shall act ‘as the representatives of the State Department’ for the purpose of administering the State’s welfare programs as provided by law or as directed and required by the State Department. This section further provides:

'Each county board shall serve as the agent of the State Department in the performance of such functions as the State Department may delegate to it.' (Emphasis added).

This same view is expressed in 79 Am. Jur. 2d, Welfare Laws § 50:

'In administering general assistance relief, a county acts as an agent of the State. Although a county has broad discretion to determine eligibility for, the type and amount of, and conditions to be attached to, indigent relief, this discretion may only be exercised within the boundaries set by the State statutes.' (Emphasis added).

*2 § 43–3–40 provides that subject to the rules and regulations of the State Department a county board shall select a director who shall be the chief executive officer of the board and he is required to perform such duties as directed by the county board, but in conformity to the general policies of the State Department or as directed by law. Thus, the county director is through his board bound to adhere to the policies and procedures of the State Department.

CONCLUSION

It is the opinion of this Office that the State Department of Social Services is the supervisory agency of the County Departments of Social Services, it being directed by statute to supervise and administer the public welfare activities and functions of the State. All rules, policies and regulations adopted by the State Department are binding on the County Departments. Further, the County Boards serve as agents of the State Department and as such may only administer such activities as provided by law or directed by the State Department. The County Boards are the supervisory bodies of the State welfare programs at the county level and are directly responsible to the State Department and subject to and bound by its rules and regulations.

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