ALAN WILSON
ATTORNEY GENERAL

April 12, 2016

The Honorable Joseph K. Bowers, III
Member of the Board of Trustees
St. James-Santee Constituent School District
665 Coleman Boulevard
Mount Pleasant, South Carolina 29464

Dear Mr. Bowers:

A majority of the St. James-Santee Board of Trustees has voted to request an opinion of this Office pertaining to the Charleston County School District. On behalf of the Board, you have submitted the following questions for our review:

1. Being that South Carolina Act 340 of 1967 devolved solely upon the board of trustees of the eight constituent school districts of Charleston County the authority to establish school attendance zones, how are the Trustees of Charleston County School District (CCSD) able to create magnet schools (not programs being that they have school codes assigned by the State Dept. of Education) that have county-wide or multi-district attendance zones without the approval of the respective boards of trustees of the constituent districts involved? What is the proper legal method to erect a multi-district magnet attendance zone for a school?

2. What, if any, policies is the CCSD Board of Trustees able to enact that the respective eight constituent school districts' board of trustees would have to adhere; in particular board member ethics, inter/intra district student transfers, school bus transportation, and student discipline?

3. The CCSD created the Office of Student Placement (OSP) to oversee discipline proceedings. Is it legal for the OSP to conduct discipline hearings without the respective constituent district board of trustees' approval? Additionally, is it legal for OSP to place a student in a discipline program outside of the constituent district without the respective constituent district board of trustees' approval?

4. When, if any time, is the Student Code of Conduct to be approved by the Trustees of CCSD or the trustees of each constituent district? Are the constituent districts permitted under the law to have varying student codes of conduct?

Our analysis follows.

Background

By Act No. 340 of 1967 the legislature consolidated the eight school districts of Charleston County into the Charleston County School District (hereinafter the "CCSD") and abolished the County Board of Education. Act No. 340 § 1, 1967 S.C. Acts 470 (hereinafter "the Act" or "Act 340"). The eight school districts were kept as "special districts" called "constituent districts." Id. The Act specified that the CCSD was to be governed by a board of trustees; in addition, each of the eight constituent districts was authorized to have a board of trustees to "perform the functions delegated to and devolved upon trustees in the constituent districts in [Act 340]." Id.

In a recent opinion issued by this Office, we addressed the divide in powers between the board of trustees of the CCSD and the boards of trustees for each of Charleston County's eight constituent districts. See Op. S.C. Att'y Gen., 2015 WL 1266150 (March 6, 2015). We summarized as follows:

> 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 the county boards of education by law and to school trustees not otherwise given to 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 of 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 Sch. Dist., 960 F.2d 1127, 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 schools as well as the complete control over the appointment of principals. Act No. 131, 2007 S.C. Acts 1390-91.

Id. at *3.

The March 6, 2015 opinion also emphasized that the powers of the trustees of the constituent districts of Charleston County are limited to those specifically enumerated in Act 340. Id. (noting also Stewart v. Charleston County Sch. Dist., 386 S.C. 373, 379-80, 688 S.E.2d 579, 582 (Ct. App. 2009) where our Court of Appeals expressly recognized that "the constituent

districts only have the powers bestowed upon them by the Act in Sections 6 and 7"). On the other hand, we distinguished that the trustees of the CCSD are afforded the powers not specifically vested to the constituent district trustees that are otherwise provided for school district trustees, powers provided for county boards of education, as well as powers specifically enumerated in the Act. Id. at * 3; see Act No. 340 § 5, 1967 S.C. Acts 472.

The opinion also highlighted United States v. Charleston County Sch. Dist., 738 F. Supp. 1513 (D.S.C. 1990), vacated in part by 960 F.2d 1227 (4th Cir. 1992), where 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. Op. S.C. Att'y Gen., 2015 WL 1266150 (March 6, 2015). The Fourth Circuit Court of Appeals upheld the District Court's finding that in determining whether the constituent districts were properly desegregated, it should look at each of the eight constituent districts as separate, independent school districts rather than the total percentage of black and white enrollment within the Charleston County School District as a whole. United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1233-34 (4th Cir. 1992). Thereby affirming the district court ruling that the eight constituent districts are separate and district and that Act 340 was enacted without discriminatory intent, the Fourth Circuit elaborated as follows:

> 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 to both 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. 1287, 1305, 36 L.Ed.2d 16 (1973).

Id. at 1233.

Our opinion therefore concluded that while each of the eight constituent districts have certain powers unique to school districts – notably local powers related to student assignment and discipline – and were treated as individual school districts in United States v. Charleston County Sch. Dist., they lack the complete makeup of an autonomous school district. Op. S.C. Att'y Gen., 2015 WL 1266150 (March 6, 2015). Thus, we provided our opinion that the constituent districts and their trustees should be treated as school districts and school district trustees, as defined by statute, in so far as their powers afford. Id. at *7, 10. However, we also cautioned that

> [w]hat 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.

Id. at *10.

Law / Analysis

With the above background in mind, we turn to the questions presented in your opinion request. However, we first provide the following caveat. While you seek definitive answers to your questions, we caution much of what you ask has not been addressed by our courts. While it is clear that the constituent district trustees only have the powers specifically devolved to them in Act 340, when applying the general law pertaining to school district trustees and county boards of education to the local law affecting the CCSD, a concrete determination of the powers of the board of trustees of the CCSD and constituent district trustees is difficult and not free from doubt. Therefore, as a preliminary matter, we caution that the answers provided below are only our opinion of how a court would likely rule on the issues you have presented. Ultimately, we advise seeking a declaratory judgment as doing so would be the only way to reach a final resolution regarding the questions asked.

I. Question One: Authority to Create a Multi-District or County-Wide Magnet School

Your first question relates to the creation of county-wide or multi-district magnet schools by the CCSD. You ask how the CCSD can create county wide or multi-district magnet schools without the approval of the applicable constituent boards of trustees being that, as you state, "Act 340 of 1967 devolved solely upon the boards of trustees of the eight constituent school districts of Charleston County the authority to establish school attendance zones." You also provide that such schools are in fact "schools" and not "programs" being that they have school codes assigned by the State Department of Education.

Guidance in answering this question is found in Stewart v. Charleston County Sch. Dist., 386 S.C. 373, 688 S.E.2d 579 (Ct. App. 2009). At issue in Stewart was whether the CCSD or Constituent District 20 had the authority to set attendance guidelines for Buist Academy, a county-wide magnet school for intellectually gifted children physically located in District 20. Id. at 379, 688 S.E.2d at 582. District 20 argued that Act 340 provided it with the specific power to set admission guidelines in Section 7(1). Id. Specifically, Section 7(1) of Act 340 provides the constituent district trustees with the power "[t]o transfer any pupil from one school to another within the same constituent district so as to promote the best interest of education, and *determine the school within each constituent district in which any pupil shall enroll.*" Act No. 340 § 7(1), 1967 S.C. Acts 474 (emphasis added).

The court rejected District 20's interpretation of Section 7(1), providing as follows:

> [w]e interpret this language to mean a constituent district may determine what school within the district a student who resides in the district will attend. Because Buist Academy's attendance zone is county-wide, the authority given to a

> constituent district under section 7(1) is not really implicated in this case as it does not involve the constituent district making an assignment to a traditional neighborhood school.

Stewart v. Charleston County Sch. Dist., 386 S.C. 373, 379, 688 S.E.2d 579, 582 (Ct. App. 2009). Alternatively, the Court found the CCSD had authority to set attendance guidelines based in part on Section 5(8) of the Act which gives the CCSD the authority to "provide for intellectually gifted children a *program* which shall challenge their talents." Id. (quoting Act No. 340 § 5(8), 1967 S.C. Acts 473) (emphasis added). In addition to the powers conferred to the CCSD under Section 5(8) of the Act, the court reasoned that "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 380, 688 S.E.2d at 582.

In response to District 20's argument that Section 5(8) should not be read to give the CCSD authority to set admission criteria for Buist Academy because the terms "program" and "school" were not the same and the legislature meant for them to have two different meanings, the court found that "[w]hile the term program is not defined in the Act, we do not conclude the term program cannot be interpreted to encompass the creation of a county-wide magnet school such as Buist Academy." Id. at 379, 688 S.E.2d at 582. Ultimately keeping with the primary rule of statutory construction to interpret a statute to reflect the legislative intent, the court concluded that "Act 340 grants the CCSD ultimate authority with respect to setting admissions criteria for Buist Academy." Id. at 380, 688 S.E.2d at 583.

Based on the Court of Appeal's ruling in Stewart, it appears Section 7(1) of Act 340 relates to a constituent district's ability to make transfers and assignments within the district to a "traditional neighborhood school." Id. at 379, 688 S.E.2d at 582; but see infra Part II.b. (discussing authority concluding that in addition to intradistrict transfers, constituent districts also have the initial authority to make interdistrict transfers). Stewart also indicates that setting attendance guidelines and making transfers for county-wide or multi-district magnet schools fall outside of the powers granted to constituent district trustees in Section 7(1) and therefore would be vested in the CCSD. Finally, Stewart clarified that authority to establish a "program" could be interpreted as encompassing the ability to create a county-wide or multi-district magnet school. Thus, from the conclusions reached in Stewart, it is our opinion that the authority to create and establish the attendance guidelines for county-wide or multi-district magnet schools would be vested in the CCSD without the need for approval of the applicable constituent district board of trustees.[1]

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[1] The South Carolina Supreme Court has affirmed the court of appeal's ruling in Stewart that the trustees of the CCSD have the ultimate authority to set attendance guidelines for magnet schools in Storm v. Charleston County Bd. of Trustees, 400 S.C. 478, 735 S.E.2d 492 (2012). However, the Court clarified that in setting admissions requirements, the trustees of the CCSD could not impose a residency requirement that excluded non-resident students eligible to attend the school pursuant to S.C. Code Ann. § 59-63-30. Id. at 491, 735 S.E.2d at 499 ("The [CCSD] Board can most certainly set admissions requirements for its magnet schools and even set geographic priority for available seats. What it cannot do is exclude an entire segment of students recognized under the statute as qualified to attend its schools").

By telephone, you have also expressed concern that S.C. Code Ann. § 59-63-500 (2004) would be violated if the trustees of the CCSD transferred a student to a county-wide or multi-district magnet school without the approval of the constituent districts affected. Prior to addressing Section 59-63-500, we point out that S.C. Code Ann. § 59-63-490 provides that when a child would be

> better accommodated at the school of an adjoining school district, whether special or otherwise, the board of trustees of the school district in which such person resides may, with the consent of the board of trustees of the school district in which such school is located, transfer such person for education to the school district in which such school is located, and the trustees of the school district in which the school is located shall receive such person into the school as though he resided within the district.

S.C. Code Ann. § 59-63-490 (2004 & Supp. 2015). Thus, as was recognized in Bd. of Trustees for Fairfield County School Dist. v. State, "the boards of trustees for the transferring and receiving districts are actively involved and statutorily authorized to exercise discretion in the transfer process." Bd. of Trustees for Fairfield County School Dist. v. State, 409 S.C. 119, 131, 761 S.E.2d 241, 248 (2014). Furthermore, citing S.C. Code Ann. § 59-63-500 (2004), it was also noted that "[t]he General Assembly has recognized the significance of this authority as any infringement constitutes a criminal offense." Id. Specifically, Section 59-63-500 provides as follows:

> [t]he trustees of any school district who knowingly permit the enrollment of pupils who have not been transferred with the consent of the trustees of the district wherein such pupils reside shall be guilty of a misdemeanor and, upon conviction, shall pay a fine not exceeding twenty-five dollars or be imprisoned not more than thirty days.

S.C. Code Ann. § 59-63-500 (2004).

While we believe approval would be required from the transferring and receiving constituent districts when a student is being transferred from a school within one constituent district to a school within another constituent district, upon the Court of Appeal's ruling in Stewart providing that authority over multi-district and county-wide magnet schools would rest with the trustees of the CCSD, we are left uncertain about who must approve a transfer when a transfer is made to a multi-district or county-wide magnet school. However, as the power over district transfers rest with the constituent districts pursuant to Section 7(1) of Act 340 and the powers pertaining to transfers to county-wide and multi-district magnet schools most likely rest with the CCSD trustees upon the ruling in Stewart, it is reasonable to suspect that a court would require consent for the transfer from the applicable trustees of the constituent district where the student resides and the approval of trustees of the CCSD on behalf of the county-wide or multi-district magnet school where the student seeks to be transferred. Accordingly, we do not believe the constituent district in which the multi-district or county-wide magnet school is physically located would be a necessary party in the approval of the transfer process to a magnet school but the consent of the constituent district where the student resides would be required.

II. Question Two: Policy Able to be Implemented by the CCSD that the Constituent Districts Must Adhere

Next, you ask "[w]hat, if any, policies are the CCSD Board of Trustees able to enact that the respective eight constituent school districts' board of trustees would have to adhere." In particular, you reference, "board member ethics, inter/intra district student transfers, school bus transportation, and student discipline."

In prior opinions of this Office, we have discussed the general law providing broad authority of school district trustees over the management and control of their school district. We have summarized these opinions as follows:

> [p]ublic schools of this State are governed by boards of trustees. Op. S.C. Atty. Gen., March 13, 1996 [noting that S.C. Code Ann. §59-19-10 bestows upon school trustees the authority for "management and control" of each school district]. An opinion of this office dated February 16, 1983, further indicated that ". . . the board of trustees of a school district is responsible for the management and control of the district, subject only to the supervision and orders of the county board of education if there is a county board. . . (and). . . has the power to make rules and regulations and to adopt policies."

Op. S.C. Att'y Gen., 2011 WL 3918179 (Aug. 25, 2011). We have also previously opined that:

> "boards of trustees of the school districts have broad powers over district affairs . . ." Ops. S.C. Atty. Gen., May 20, 2011; March 13, 1996; October 5, 1979. This necessarily includes the authority to make rules that are necessary for its government and the government of its employees, the pupils of its schools, and all other persons entering upon its school grounds or premises. See generally §59-19-10.

Id. at *2.

While this remains our opinion generally as to school district trustees, in Charleston County, the powers of a school district trustee are divided between the trustees of the CCSD and the trustees of the constituent districts. Therefore, a determination as to the entity responsible for district affairs is not as clearly defined as it is with traditional, autonomous school districts. As we noted above, the powers given to the CCSD include those given to the county boards of education by law and to school trustees not otherwise given to the trustees of the eight constituent districts. On the other hand, Act 340 provides the constituent district trustees with the powers specifically enumerated in the Act, subject to appeal of the Board of Trustees of the CCSD.

The powers given to the constituent trustees by Act 340 are listed as follows:

> [t]he trustees in each of the constituent districts shall have the power in their respective districts, subject to the appeal to the Board of Trustees in the

> Charleston County School District in the manner provided in Sections 21-247 *et seq.* of the Code of Laws of South Carolina, 1962:
> (1) To transfer any pupil from one school to another within the same constituent district so as to promote the best interest of education, and determine the school within such constituent district in which any pupil shall enroll ;
> (2) To suspend or dismiss pupils when the best interest of the schools make necessary ;
> (3) To cooperate with the State Highway Department in enforcing safety rules and regulations applicable to school buses and making provisions for school bus transportation within the area of a constituent district where such transportation has heretofore been in operation in such areas ; and
> (4) To require all school buses operated under any transportation contract to be covered by casualty liability insurance in an amount to be fixed by said constituent district trustees, the policies to be approved by said trustees and filed in the office of the Superintendent of Education of the Charleston County School District.
> The trustees in each of the constituent districts shall keep an accurate record of their proceedings, which record shall be kept in their office and shall be open to public inspection, and they shall annually make recommendations to the Board of Trustees of the Charleston County School District relative to the educational affairs of the respective districts.

Act No. 340 § 7, 1967 S.C. Acts 474.

As noted above, a South Carolina District Court as well as the Fourth Circuit Court of Appeals have commented on the effect of the powers vested to the CCSD and those given to the constituent districts. As provided by the South Carolina District Court:

> 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 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., 738 F.Supp. 1513, 1534 (D.S.C. 1990), *vacated in part by*, 960 F.2d 1227 (4th Cir. 1992). On appeal, the Fourth Circuit agreed with this reasoning, stating that:

> 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.

United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1233 (4th Cir. 1992).

As to the policies that can be implemented by either the trustees of the CCSD or the trustees of the constituent districts, it has been the consistent opinion of this Office that entities created by statute, like the constituent district boards of trustees and the trustees of the CCSD, can only exercise those powers expressly granted by statute and those powers conferred by necessary implication. See, e.g., Op. S.C. Att'y Gen., 2016 WL 963697 (Feb. 11, 2016); Op. S.C. Att'y Gen., 2015 WL 1636661 (March 26, 2015); Op. S.C. Att'y Gen., 1974 WL 27574 (Jan. 4, 1974); Op. S.C. Att'y Gen., 1969 WL 15607 (June 24, 1969). We have summarized South Carolina Supreme Court precedent discussing this rule of law as follows:

> the authority of a state agency or governmental entity created by statute "is limited to that granted by the legislature." Nucor Steel v. South Carolina Public Serv. Comm'n, 310 S.C. 539, 426 S.E.2d 319 (1992). "As creatures of statute, regulatory bodies ... possess only those powers which are specifically delineated. By necessity however, a regulatory body possesses not only the powers expressly conferred on it but also those which must be inferred or implied to effectively carry out the duties for which it is charged." City of Rock Hill v. South Carolina Dep't of Health and Envtl. Control, 302 S.C. 161, 165, 394 S.E.2d 327, 300 (1990) (internal citations omitted). As such, this Office has recognized on numerous occasions that governmental agencies "can exercise only those powers conferred upon them by their enabling legislation or constitutional provisions, expressly inherently, or impliedly." Op. S.C. Att'y Gen., 1988 WL 485289 (Sept. 22, 1988).

Op. S.C. Att'y Gen., 2015 WL 1636661 (March 26, 2015).

As to the questions you have asked, what complicates the issue of policy implementation is the general rule making powers afforded to both trustees of county boards of education and to trustees of the school districts as well as the statutory provision stating that school districts shall be under the "management and control" of their board of trustees. See S.C. Code Ann. § 59-15-40 (2004) ("County boards of education may prescribe such rules and regulations not inconsistent with the statute law of this State as they may deem necessary or advisable to the proper disposition of matters brought before them"); S.C. Code Ann. § 59-19-110 (2004) ("The boards of trustees of the several school districts may prescribe such rules and regulations not inconsistent with the statute law of this State as they may deem necessary or advisable to the proper disposition of matters brought before them."); S.C. Code Ann. § 59-19-10 (2004 & Supp. 2015) ("Each school district shall be under the management and control of the board of trustees provided for in this article . . . ."). In addition, under the general law, local school district trustees are afforded the power to "[p]romulgate rules prescribing scholastic standards of achievement and standards of conduct and behavior that must be met by all pupils as a condition to the right of such pupils to attend the public schools of such district . . . ." S.C. Code Ann. § 59-19-90(3) (2004).

In an opinion written on March 30, 1972, we commented on the general rule making powers afforded to county boards of education and school district boards of trustees and their application to the CCSD. Op. S.C. Att'y Gen., 1972 WL 25258 (March 30, 1972). Specifically, we provided as follows:

> [s]ince Act 340 of 1967 does not specifically or impliedly grant rule-making authority to the trustees in the constituent districts, I am of the opinion that the Board of Trustees of Charleston County School District is the only board with the power to make rules and regulations governing attendance, discipline, and punishment of pupils in the Charleston County School District.

Id. at * 1. However, in light of the Fourth Circuit's ruling in United States v. Charleston County Sch. Dist., we question whether the CCSD Board of Trustees can implement policy under the general rule making powers described above in the areas of law that the legislature has specifically assigned to the constituent districts. From United States v. Charleston County Sch. Dist., it is clear that the constituent districts retain the authority to control certain aspects of running their own districts as specified by Section 7 of Act 340, separate and apart from the responsibilities of the CCSD. United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1233 (4th Cir. 1992). In other words, the General Assembly has specifically withheld certain functions from the CCSD Board of Trustees. We have previously acknowledged the same understanding in a prior opinion of this Office: "[i]n 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." Op. S.C. Att'y Gen., 1968 WL 12733 (Aug. 8, 1968).

Therefore, straying from our March 30, 1972 opinion upon the ruling of the Fourth Circuit in United States v. Charleston County Sch. Dist., it is our opinion that a court would likely find the constituent district trustees have the power to implement policies and procedures inherently necessary to carry out the powers expressly granted to them by Act 340. Similarly, the CCSD trustees, with the remaining powers of school district trustees not granted to the constituent district trustees, the powers granted to county boards of education, and the powers specifically enumerated to them by Act 340, would have the power over the district's affairs not devolved to the constituent district trustees and the ability to make rules and regulations and to adopt policies necessary in effectuating the powers they have been afforded.

With the understanding of this general conclusion in mind, we turn to your specific inquiries on board member ethics, inter/intra district student transfers, school bus transportation, and student discipline.

a. Board Member Ethics

Within the powers enumerated in Section 7(1) of Act 340 to the constituent district trustees, none pertain to board member ethics or adopting policies related thereto. See Act No. 340 § 7, 1967 S.C. Acts 474. On the other hand, certain powers given to school district trustees under the general law that were not given to the constituent district trustees and certain powers given to county boards of education would, in our opinion, likely permit policy making by the CCSD that could relate to board member ethics. One of the powers given to the CCSD Board of Trustees by Act 340 is the authority to "[a]dopt and publish administrative policies and procedures. . . ." Act No. 340 § 5(2), 1967 S.C. Acts 472. Furthermore, under the general law, county boards of education are also given the power to remove school district trustees from

office for cause,[2] upon notice and after being given an opportunity to be heard by the county board of education. S.C. Code Ann. § 59-19-60 (2004).

From these powers, a court could find that the CCSD Board of Trustees would be able implement policy concerning board member ethics under the general rule making authority afforded to school district trustees and county boards of education. See S.C. Code Ann. § 59-15-40 (2004) ("County boards of education may prescribe such rules and regulations not inconsistent with the statute law of this State as they may deem necessary or advisable to the proper disposition of matters brought before them"); see also S.C. Code Ann. § 59-19-110 (2004) ("The boards of trustees of the several school districts may prescribe such rules and regulations not inconsistent with the statute law of this State as they may deem necessary or advisable to the proper disposition of matters brought before them.").

Thus, while the term "board member ethics," as you use in your opinion request, is broad, and we would need to review the specific policy implemented in conjunction with the powers afforded to the trustees of the CCSD, it is our opinion that a court could find certain powers given to the county board of education as well as powers given to the district trustees not otherwise vested to the constituent districts may authorize the CCSD trustees authority to implement policies related to board member ethics. If implementing a policy concerning ethics of the constituent district boards, we would caution the trustees of the CCSD to be aware of the provisions of the State Ethics Act to ensure any policies implemented are not in contradiction with its provisions. See S.C. Code Ann. § 8-13-100 et seq. (Supp. 2015) et seq.

b. Inter/Intra District Student Transfers

As addressed in question one, the legislature has devolved upon the constituent districts the ability to transfer students and make school assignments within their district. See Act 340 § 7(1), 1967 S.C. Acts 474 (giving constituent districts the power "[t]o transfer any pupil from one school to another *within the same constituent district* so as to promote the best interest of education, and determine the school *within such constituent district* in which any pupil shall enroll") (emphasis added). In a prior opinion of this Office, we have also acknowledged Section 7(1)'s grant of authority over intradistrict transfers to the constituent districts. See Op. S.C. Att'y Gen., 1977 WL 24612 (Sept. 1, 1977).

As it remains clear the trustees of the applicable constituent district would have the authority to make transfers within the constituent district, subject to appeal made to the CCSD, we also believe a court could find the power to implement policy concerning intradistrict transfers may be conferred to the constituent district trustees by necessary implication. Put differently, because the power of intradistrict transfers has been specifically given to the constituent district trustees, we question the authority of the trustees of the CCSD to implement policy in this area. See Piedmont and N. Ry. Co. v. Scott, 202 S.C. 207, 24 S.E.2d 353, 360 (1943) ("Such bodies, being unknown to the common law, and deriving their authority wholly from constitutional statutory provisions, will be held to possess only such powers as are

[2] See Op. S.C. Att'y Gen., 2015 WL 3533905 (Jan. 14, 2015) (discussing S.C. Code Ann. § 59-19-60 and "cause" for removal).

conferred, expressly or by reasonably necessary implication, or such as are merely incidental to the powers expressly granted . . . .'Any reasonable doubt of the existence in the Commission of any particular power should ordinarily be resolved against its exercise of power' ").

In regards to interdistrict transfers, Act 340 is silent as to who has the authority to make such transfers. Under the general law, school district boards of trustees have the broad authority, to "[t]ransfer any pupil from one school to another so as promote the best interests of education, and determine the school within its district in which any pupil shall enroll"). S.C. Code Ann. § 59-19-90(9) (2004). Furthermore, S.C. Code Ann. § 59-63-490 (2004) provides as follows:

> [w]hen it shall so happen that any person is so situated as to be better accommodated at the school of an adjoining school district, whether special or otherwise, the board of trustees of the school district in which such person resides may, with the consent of the board of trustees of the school district in which such school is located, transfer such person for education to the school district in which such school is located, and the trustees of the school district in which the school is located shall receive such person into the school as though he resided within the district.

If a decision is made by the school district trustees to refuse the transfer, the county board of education, acting as an appellate body, can order a transfer after finding refusal by the receiving school district was unreasonable and capricious. S.C. Code Ann. § 59-63-510 (2004). Specifically, Section 59-63-510 (2004) provides as follows:

> [w]hen a transfer of pupils from one district to another is sought and the trustees of the latter district unreasonably or capriciously withhold their consent, the county board of education of the county in which the districts are located shall have the right, after hearing, to make the transfer . . . .

In prior opinions of this Office and in case law, the general law pertaining to interdistrict transfers has been applied to the CCSD to conclude that the trustees of the transferring and receiving constituent districts have the power to make initial decisions concerning the approval of interdistrict transfers, and the trustees of the CCSD only have authority over an appeal of such decision. See United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1234 (4th Cir. 1992) ("A refusal by a constituent district to permit an interdistrict transfer may be appealed to the CCSD and on appeal the CCSD decides only whether the refusal was unreasonable or arbitrary . . . . The CCSD has no authority under the laws of South Carolina initially to order an interdistrict transfer"); Op. S.C. Att'y Gen., 2012 WL 5705579 (Nov. 5, 2012) ("[I]t is the trustees of the transferring and receiving constituent districts, and not the CCSD, who have the authority to make the initial determination as to whether a student may transfer between districts . . . . It is only after such a transfer is refused that the CCSD's Board may become involved. Even then, the CCSD's Board is only empowered under § 59-63-510 to order a transfer if it finds the refusal to transfer was unreasonable and capricious"); Op. S.C. Att'y Gen., 1977 WL 24612 (Sept. 1, 1977) (If the Charleston County Board of Trustees finds that the constituent board has acted unreasonably or capriciously, it may order the transfer. However, unless an appeal is taken

from an adverse decision of the constituent districts, the Board of Trustees of Charleston County has no authority to authorize or disapprove a transfer between adjacent constituent districts").

Thus, as case law and our past opinions state, it has been determined that the constituent districts have the power to initiate interdistrict transfers. It is therefore our opinion that a court would likely find policy as to interdistrict transfers would also rest with the constituent districts in so far as implementation of such policies are considered necessary to effectuate the transfer. In other words, the policy must come as a result of necessary implication. Inversely, because the board of trustees of the CCSD only acts as an appellate body in the decision of making interdistrict transfers, it is also our opinion that a court would likely find the trustees of the CCSD lack the authority to implement policy concerning initial interdistrict transfers.

c. School Bus Transportation

Certain powers regarding school bus transportation have been vested to the constituent district trustees by Act 340. Specifically, Section 7, Subsections (3) and (4) provide the constituent district trustees with the powers "[t]o cooperate with the State Highway Department in enforcing safety rules and regulations applicable to school buses and making provisions for school bus transportation within the area of a constituent district where such transportation has heretofore been in operation in such areas" and "[t]o require all school buses operated under any transportation contract to be covered by casualty liability insurance in an amount to be fixed by said constituent district trustees, the policies to be approved by said trustees and filed in the office of the Superintendent of Education of the Charleston County School District." Act 340 § 7(3)-(4), 1967 S.C. Acts 474. It appears clear that the result of the grant of these powers to the constituent districts was to vest in those districts authority with respect to school bus safety and transportation as well as the facilitation of casualty insurance.

Since the enactment of Act 340, the legislature has passed legislation in regards to school bus safety. See, e.g., S.C. Code Ann. § 56-5-195 (2006 & Supp. 2015) (requiring that any entity transporting students to and from school, school related activities, or child care in a school bus must adhere to the federal school bus safety standards as contained in 49 U.S.C. Section 30101, et seq.). In addition, there are numerous provisions specific to insurance on school buses set forth in the Code. See, e.g., S.C. Code Ann. § 59-67-710, et seq. (2004 & Supp. 2015). As statutes dealing with school bus safety and transportation and insurance on school buses, it is our opinion that such statutes should be construed together, if possible, with Sections 7 (3) and (4) of Act 340. If a single, harmonious result can be produced from such construal, we believe it would be incumbent on the constituent districts to adhere to these statutory provision and others relevant to carrying out their prescribed powers under Sections 7(3) and (4) of Act 340. See Amisub of South Carolina, Inc. v. South Carolina Dep't of Health and Envtl. Control, 407 S.C. 583, 597, 757 S.E.2d 408, 416 (2014) ("[S]tatutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible to produce a single, harmonious result").

As to what policies the CCSD could implement regarding school bus transportation, it appears the powers vested to the constituent districts are broad in this area, and accordingly, it is our opinion that the constituent districts could implement policies necessary to carry out those powers. On the other hand, as we have stated numerous times, any powers vested to school

districts not vested to the constituent districts and any powers granted to county boards of education would lie with the board of trustees of the CCSD. Thus, we believe that any policy implemented by the CCSD in the area of school bus transportation would have to fall within the powers given to county boards of education or school district trustees not otherwise given to the constituent districts as listed above.

d. Student Discipline

See part III below.

III. Questions Two, part d; Three; and Four: Student Discipline

The remainder of your questions relate to student discipline. Section 7(2) of Act 340 provides constituent district trustees with the power "[t]o suspend or dismiss pupils when the best interest of the schools make necessary." Act 340 § 7(2), 1967 S.C. Acts 474. As noted above, the Fourth Circuit has commented on the District Court's finding in United States v. Charleston County Sch. Dist. that the constituent districts act as independent school districts. United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1233 (4th Cir. 1992). In doing so, it recognized agreement that the constituent districts maintain control over "student discipline." Id. ("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 and to [the] quality of the educational process' "). In light of the Fourth Circuit's ruling, it appears the court interpreted Section 7(1) of Act 340 as devolving upon the constituent district trustees the broad authority over student discipline. While the Court did not comment on the extent of the constituent districts' power in this area, we turn to the general law on student discipline for further guidance.

Under the general law, S.C. Code Ann. § 59-19-90(3) (2004) provides the board of trustees of a school district the authority to:

> [p]romulgate rules prescribing scholastic standards of achievement and standards of conduct and behavior that must be met by all pupils as a condition to the right of such pupils to attend the public schools of such district. The rules shall take into account the necessity of proper conduct on the part of all pupils and the necessity for scholastic progress in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that such rules may result in the ineligibility of pupils who fail to observe the required standards, and require the suspension or permanent dismissal of such pupils.

Chapter 63 of Title 59 of the South Carolina Code further addresses student discipline. S.C. Code Ann. § 59-63-210 et seq. (2004 & Supp. 2015). In relevant part, Section 59-63-210 (2004) provides that:

> [a]ny district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for a violation of written rules and

> promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. . . ."

In regards to suspension, Section 59-63-220 states in part that "[a]ny district board may confer upon any administrator the authority to suspend a pupil . . . from the school not in excess of ten days for any one offense. . . .S.C. Code Ann. § 59-63-220 (2004). Furthermore, S.C. Code Ann. § 59-63-230 (2004) addresses the procedure for suspension, stating that:

> [w]hen a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and place when the administrator shall be available for a conference with the parents or guardian. . . . After the conference the parents or legal guardian may appeal the suspension to the board of trustees or to its authorized agent.

As to expulsions, S.C. Code Ann. § 59-63-240 (2004 & Supp. 2015) provides that:

> [t]he board may expel for the remainder of the school year a pupil for any of the reasons listed in § 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. . . . The action of the board may be appealed to the proper court. . . .

Finally, we note the State Board of Education has promulgated the minimum standard of student conduct and disciplinary enforcement procedures to be implemented by local school districts. S.C. Code Ann. Regs. 43-279 (Supp. 2015). The regulation permits schools districts with previously adopted policies, consistent with and that contain the elements included therein, to retain the local policies they adopted and adopt more stringent standards than provided. Id. at II, III. E. The Regulation also states that "[a] local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used." Id. at IV(D). Other areas of student conduct not classified within a particular level within the Regulation can also be regulated by local school boards; some areas of student conduct subject to regulation are listed and other areas not enumerated can be regulated if within the local school board's "legal limits." Id. at VI.

a. Question Two, part d

Addressing your first question concerning student discipline – what policies the CCSD Board of Trustees is able to enact concerning student discipline that the constituent district trustees would have to adhere – we find it impossible to provide a precise answer without

knowing the specific policy attempting to be implemented. However, looking back to Section 7(2) of Act 340, it is clear that the power over student discipline, at least in part, was vested to the constituent boards of trustees in their ability "[t]o suspend or dismiss pupils when the best interest of the schools make necessary." Act 340 § 7(2), 1967 S.C. Acts 474. In attempting to construe Section 7(2) of Act 340 with the general law concerning student discipline, as noted above, the general law provides in detail the reasons and procedures for suspension and expulsion. See generally S.C. Code Ann. 59-63-210-240 (2004). In addition, the legislature has provided school district trustees with the authority to promulgate rules regarding standards of conduct, and provides that the failure to abide by such rules will require suspension or permanent dismissal. See S.C. Code Ann. § 59-19-90(3) (2004).

As the general law provides school district trustees with the authority to promulgate rules concerning standards of student conduct but Act 340 broadly prescribes the constituent districts with the authority to suspend or dismiss students "when the best interest of the schools make necessary" it seems an ambiguity exists as to whether the constituent district trustees or the trustees of the CCSD have been vested with the power to set policy concerning student conduct and discipline. In reconciling this ambiguity, we again look to the rule of statutory construction providing that "statutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible to produce a single, harmonious result." Amisub of South Carolina, Inc. v. South Carolina Dep't of Health and Envtl. Control, 407 S.C. 583, 597, 757 S.E.2d 408, 416 (2014). Furthermore, if the language of an act gives rise to doubt of uncertainty as to legislative intent, the construing court may search for that intent beyond the borders of the act itself. State v. Morgan, 352 S.C. 359, 574 S.E.2d 203 (S.C. 2001) (citations omitted).

Applying these rules of statutory construction, we believe the general laws cited above concerning student discipline and Section 7(2) of Act 340 can be construed together to produce a harmonious result. This would result in the constituent district trustees having broad authority over student discipline and the power to implement necessary policy concerning the same. This conclusion is also supported when looking beyond the language of Section 7(2) of Act 340 in examination of the overall dynamic of the South Carolina public school system. The most powerful indication of the legislative intent is the longstanding tradition of vesting local school districts with control over student discipline, as pointed out in United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1233 (4th Cir. 1992) ("The local determination of . . . 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 concerns and support for public schools and to [the] quality of the educational process'" (quoting Milliken v. Bradley, 418 U.S. 717, 741-42, 94 S.Ct. 3112, 3125-26 (1974); citing Wright v. Council of Emporia, 407 U.S. 451, 469, 92 S.Ct. 2196, 2206 (1972); San Antonio Independent Sch. Dist. v. Rodriguez, 411 U.S. 1, 50, 93 S.Ct. 1278, 1305 (1973)).

While it is our conclusion that a court would find the constituent districts have broad authority over student discipline and could implement necessary policy concerning the same as a result of that power, the State Board of Education has promulgated the minimum standard of student conduct and disciplinary enforcement procedures that must be complied with. Therefore, it appears policy in this area is in large part predetermined. In regards to what policy the trustees

of the CCSD could implement, we believe that any policy adopted by the CCSD in the area of student discipline would have to fall within the powers given to county boards of education or school district trustees not otherwise vested to the constituent districts.

b. Question 3

In Question 3 you state that "[t]he CCSD created the Office of Student Placement (OSP) to oversee discipline proceedings." Thereafter, you ask "[i]s it legal for the OSP to conduct discipline hearings without the respective constituent district board of trustees' approval" and also "is it legal for OSP to place a student in a discipline program outside of the constituent district without the respective constituent district board of trustees' approval?"

As noted above, S.C. Code Ann. § 59-63-240 (2004 & Supp. 2015) permits a district board of trustees to expel a student for the remainder of the school year for reasons listed in S.C. Code Ann. § 59-63-210. Furthermore, when expulsion procedures are initiated, a hearing is to be set before "the board or a person or committee designated by the board." S.C. Code Ann. § 59-63-240. Being that the general law permits local school district trustees with the power to designate a committee to conduct expulsion hearings, it appears the CCSD has authorized the OSP as the "committee designated by the board" to conduct expulsion hearings under the premise that such power is not specifically enumerated to the constituent district trustees. However, because Section 7(2) of the Act 340 permits the constituent district trustees the power to suspend or dismiss pupils when the best interest of the schools makes necessary, but does not specifically speak to the procedure or reasons for initiating the expulsion, ambiguity again results as to whether the general law speaking to expulsion procedures would apply to the constituent district trustees or the trustees of the CCSD.

Like the analysis to Question 2, part d above, we believe it is necessary to enforce the rule of statutory construction that where an ambiguity exists between the general law and the local law on the same subject, they must be construed together, if possible to produce a single, harmonious result. Again, it is our opinion, as reinforced by the longstanding tradition of providing local school districts with control over student discipline, that it was the intent of the Legislature in its enactment of Act 340, Section 7(2) to provide constituent district trustees with broad authority over student discipline. As such, we believe it likely that a court would construe Section 7(2) of Act 340 together with the general law pertaining to expulsion procedures to find the constituent district trustees have the initial authority to conduct expulsion hearings as well as the authority to authorize a committee, such as the OSP, to act on its behalf.

c. Question 4

Finally, you conclude with the following two questions: "when, if any time, is the Student Code of Conduct to be approved by the Trustees of CCSD or the trustees of each constituent district? Are the constituent districts permitted under the law to have varying student codes of conduct?"

We previously provided that Regulation 43-279 was promulgated by the State Board of Education setting forth the minimum standards of student conduct and disciplinary enforcement

procedures to be implemented by local school districts. S.C. Code Ann. Regs. 43-279 (Supp. 2015) ("This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina."). Accordingly, while not necessarily "approved" by the trustees of the CCSD or the trustees of each constituent district, any code of student conduct that is implemented within the school district would have to be compliant with Regulation 43-279.

As to your second question, Regulation 43-279 permits school districts with previously adopted policies, consistent with and that contain the elements included in Regulation 43-279 to retain the local policies they adopted. S.C. Code Ann. Regs. 43-279, § II (Supp. 2015). Also, school districts are able to adopt more stringent standards than those contained in the Regulation within the local school board's legal limits. Id. at III. E. In line with the Fourth Circuit's ruling in United States v. Charleston County Sch. Dist., 960 F.2d 1227, 1234 (4th Cir. 1992), finding that the eight constituent districts of Charleston County were "separate and distinct," it is our opinion that a court could find that the codes of student conduct could vary from constituent district to constituent district depending on whether more stringent standards of conduct are implemented by a particular constituent district and whether previously adopted policies in place in one constituent district meeting the elements in Regulation 43-279 were retained.

Conclusion

As we have previously opined, the eight constituent districts of Charleston County are limited to the statutory powers provided to them by Act 340. Therefore, while the constituent districts have certain powers unique to school districts – such as local powers related to student assignment and discipline – and were treated as individual school districts in United States v. Charleston County Sch. Dist., they lack the complete make up of an autonomous school district. Apart from the trustees of the constituent districts, the trustees of the CCSD have the remaining powers not specifically vested to the constituent district trustees provided in the general law for school district trustees, powers provided for county boards of education, as well as powers specifically enumerated in Act 340.

While the general proposition that that the constituent district trustees only have the powers specifically devolved to them in Act 340 is easily understood and clear, the prescribed general powers given to the constituent districts are difficult to apply when comparing those powers to the general law pertaining to school districts and county boards of education. Accordingly, as many of your questions have not been addressed by our courts, we caution that this opinion is this Office's interpretation of how a court would likely rule on the issues presented and is not free from doubt. We advise seeking a declaratory judgment as such would be the best way to resolve the issues presented with finality. Nevertheless, as to your specific questions, a summary of our opinion of how a court would likely rule follows.

1. From the Court of Appeal's findings in Stewart, it is our opinion that the authority to create and establish the attendance guidelines for county-wide or multi-district magnet schools would be vested in the CCSD without the need for approval of the applicable constituent district board of trustees. The court clarified that setting attendance guidelines and making transfers for county-wide or multi-district magnet schools fall outside of the powers granted to constituent district trustees in Section 7(1) of Act 340 and would therefore be vested to the trustees of the

CCSD. Furthermore, the court concluded that the authority of the CCSD to establish a "program" could be interpreted as encompassing the ability to create a county-wide or multi-district magnet school.

> In regards to a transfer to a multi-district or county-wide magnet school, we do not believe the trustees of constituent district in which the multi-district or county-wide magnet school is physically located would be a necessary party in the approval of the transfer if such constituent district is different from the district where the student seeking the transfer resides. We do believe the consent of the constituent district where the student resides would be required prior to the transfer to a magnet school.

2. As to what policies the CCSD trustees could implement that the constituent district trustees would have to adhere, it is well established that entities created by statute, like the trustees of the CCSD and the constituent district board of trustees, can only exercise those powers expressly granted to it by statute and those powers conferred by necessary implication. Accordingly, it is our opinion that a court would find the constituent district trustees and the trustees of the CCSD would have the power to implement policies and procedures regarding board member ethics, inter/intra district student transfers, school bus transportation, and student discipline only if such authority is expressly conferred or if conferred by necessary implication.

a. Board Member Ethics. While the term "board member ethics" is broad and we would need to review the specific policy implemented in conjunction with the powers afforded to the trustees of the CCSD, it is our opinion that a court could find certain powers given to county boards of education, powers generally given to the school district trustees not otherwise vested to the constituent districts, and powers specifically granted to the trustees of the CCSD by Act 340 may authorize the CCSD trustees authority to implement policies related to board member ethics.

b. Inter/Intra District Student Transfers. Case law and prior opinions of this Office have concluded that the constituent districts have the initial authority to make both inter and intra district transfers. As such, we believe a court could find the power to implement necessary policy concerning inter and intra district transfers may be conferred to the constituent district trustees by necessary implication. Because it has been concluded that these powers would rest with the constituent districts, and the CCSD acts only as an appellate body as to initial inter and intra district transfers, we question to the authority of the CCSD to implement policies concerning the same.

c. School Bus Transportation. In regards to school bus transportation, it appears the powers vested to the constituent districts in this area are broad, and accordingly, we believe the constituent district trustees could implement policy necessary to carry out their authority relating to school bus safety and transportation as well as the facilitation of casualty insurance. However, such policy would have to be in accordance with the general law governing the same subjects. On the other hand, any powers vested to school districts not vested to the constituent districts and any powers granted to county boards of education would lie with the board of trustees of the CCSD. Thus, we believe that any

policy implemented by the CCSD in the area of school bus transportation would have to fall within the powers given to county boards of education or school district trustees not otherwise given to the constituent districts in the area of school bus transportation.

d. Student Discipline. In line with the rules of statutory construction explained above, we believe a court would find the constituent districts have broad authority over student discipline and the power to implement policy concerning the same. However, as we have consistently stated throughout this opinion, we believe the trustees of the CCSD could implement policy necessary in carrying out the powers vested to it from authority granted to the county boards of education, powers given to school district trustees not otherwise given to the constituent trustees, or powers specifically provided by Act 340.

3. Concerning your questions on the Office of Student Placement created by the CCSD, we believe it likely that a court would construe Section 7(2) of Act 340 together with the general law pertaining to expulsion procedures to find the constituent district trustees have the initial authority to conduct expulsion hearings as well as the authority to authorize a committee, such as the OSP, to act on its behalf.

4. Finally, as to student codes of conduct, while not necessarily "approved" by the trustees of the CCSD or the trustees of each constituent district, a code of student conduct must be compliant with Regulation 43-279 and therefore is in large part predetermined. Nevertheless, since Regulation 43-279 does permit school districts to keep previously adopted policy consistent with and that contain the elements included in the Regulation and also permits school districts to adopt more stringent standards than those contained in the regulation within the local school board's legal limits, it is our opinion that a court could find codes of student conduct could differ from constituent district to constituent district.

Very truly yours,

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