

1976 WL 30417 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 29, 1976

***1 RE: Statutory Authority of State Department of Social Services**

Department of Health, Education and Welfare Audit Agency
P. O. Box 27443
Raleigh, North Carolina 27611

Dear Sir:

In response to the inquiry of Mr. Phillip C. Maddox, dated December 23, 1975, wherein he asks whether the State Department of Social Services possesses the 'statutory authority' over the county departments of social services to enforce compliance with its rules and regulations, the following has been determined.

The State Department of Social Services has been authorized to adopt all necessary rules and regulations and formulate policies and methods of administration. Section 71-9, Code of Laws of South Carolina (1962). It has also been given the authority to supervise the administration of assistance, with such administration to be uniform throughout the State. Such rules and regulations governing the administration of assistance are binding upon each county department. Section 71-9, Code of Laws of South Carolina (1962). However, these statutes do not state what sanctions, if any can or should be used by the State Department to see that its policies are followed.

The county departments and boards, created by Section 71-31, Code of Laws of South Carolina (1962), as amended, have been subjugated to rules and regulations of the State Department. Section 71-36, Code of Laws of South Carolina (1962). However, these statutes do not prescribe any penalty for a failure to so do. Moreover, the county boards set policies for the county departments and even elect the county directors independent of the State Department. Section 71-34, Code of Laws of South Carolina (1962). Finally, the recently adopted Appropriations Act mandates that 'the administrative organization and operations of the State Office of the Department of Social Services, whether carried out directly by the State Office or through regular or district offices, shall not interfere with nor encroach upon the statutory authority of county social service boards.' (Emphasis Added)

It is the unofficial view of this Office that the South Carolina Department of Social Services possesses no statutory authority to enforce the county departments of social services to comply with its rules and regulations nor to impose sanctions for failure to so comply.

As this Office can only advise and render official opinions to the General Assembly, Governor, and other State Officials of the Executive Branch when such questions relate to their official business the views expressed herein are not to be deemed an official opinion but advisory only.

Respectfully,

Lincoln C. Jenkins, III
Staff Attorney

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