

1978 S.C. Op. Atty. Gen. 214 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-189, 1978 WL 22657

Office of the Attorney General

State of South Carolina

Opinion No. 78-189

November 10, 1978

**\*1 SUBJECT: School Districts**

School district trustees do not possess authority to provide private piano teachers an area with a piano within the district schools in order to teach students piano for individual lesson fees.

TO: School District Attorney  
Camden, SC 29020

**QUESTIONS:**

1. May the trustees of Lexington County School District No. 1 provide piano teachers who are not employees of the school district an area with a piano within district schools for individual lessons at the cost of individual students during school hours?
2. If private piano teachers are not allowed to teach in an area with a piano provided by the school district free of charge during school hours, may private piano teachers pay a rental fee and continue using school property?

**STATUTES AND CASES:**

§§ 59–19–90, 59–19–140, 59–19–250 of the Code of Laws of South Carolina (1976); [Carter v. Lake City Baseball Club](#), 218 S.C. 255, 62 S.E.2d 270 (1950); 1969–70 Ops. Att'y. Gen. No. 3014, p. 298; 97 A.L.R.2d Use of School Property, § 10, p. 1284.

**DISCUSSION:**

The school district trustees are vested with general control over both school property and educational interest within their district; as specified in § 59–19–90, [Code of Laws of South Carolina](#), 1976:

(5) Control school property. Take care of, manage and control the school property of the district; . . . \* \* \*

(7) Control educational interest of district. Manage and control local educational interests of its district, with the exclusive authority to operate or not to operate any public school or schools; . . .

[Section 59–19–140, Code of Laws of South Carolina](#), 1976, further delineates the district trustees authority with regard to district property, stating:

Each district board of trustees may adopt rules and regulations which are not inconsistent with State law or the rules and regulations of the State Board of Education governing the use of school equipment for purposes other than normal school activity.

The teaching of piano in public schools by private teachers would not be considered a normal school activity, because these teachers receive personal monetary remuneration. This opinion assumes that the piano teachers in question do not hold certificates issued by the State Department of Education and are not under an employment contract with the school district, and therefore, such teachers would not be under the direct control of the district trustees.

In the case of [Carter v. Lake City Baseball Club](#), 218 S.C. 255, 62 S.E.2d 470 (1950), our Supreme Court held that a school district board of trustees did not have the power to lease school property or permit the playing of baseball by a professional team on a school athletic field dedicated for the use of a school in its athletic program. The Court specifically found that use of the school athletic field by the professional baseball team interfered with use of the field by students of the school in extracurricular activities sponsored by the school. In 1969–70 Ops. Att'y, Gen., No. 3014, p. 218, Assistant Attorney General H. W. McDonald, Jr., stated that:

\*2 The law in South Carolina is obviously that the school board may make any arrangements that it cares to in regard to the incidental use of school property by private or public parties. But this discretionary power can be abused if the activities permitted on school property are other than incidental and casual in nature and conflict with school purposes.

The teaching of piano for fees on a regular basis during the school year is neither ‘incidental’ nor ‘casual’.

Finally, § 59–19–250, [Code of Laws of South Carolina](#), 1976, expressly provides for the sale or lease of school property by trustees:

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. 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.

Apparently, the district board of trustees does have authority to lease school property within the constraints of the discussion in previous paragraphs of this opinion.

#### CONCLUSION:

District school trustees do not have the authority to allow a private piano teacher to provide lessons for individual students in exchange for fees in an area with a piano provided by the school free of charge during school hours. However, in accordance with the above discussion, the district trustees may lease an area with a piano to private teachers after regular school hours, so long as, this practice does not interfere with any school-related activities. See 94 A.L.R.2d, *Use of School Property*, § 10, p. 1284.

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