

1975 S.C. Op. Atty. Gen. 51 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3977, 1975 WL 22275

Office of the Attorney General

State of South Carolina

Opinion No. 3977

February 24, 1975

\*1 Mr. T. H. Rawl

Attorney for School District #1

Lexington, South Carolina

Dear Mr. Rawl:

The Board of Education for Lexington County and the Board of Trustees for Lexington County School District #1 have requested my opinion concerning the action taken by the County Board of Education on January 29, 1975, by its adoption of the following directive as contained in the said letter:

‘—In accordance with the authority vested in this body by Section 21–221 and Section 21–230 of the South Carolina Code of Laws, the Lexington County Board of Education directs and orders that a moratorium be declared concerning contracted matters between the School District One Board and their chief administrative officer for the 1975–76 school year until March 15, 1976.’

Section 21–221 provides:

‘Each school district shall be under the management and control of the Board of Trustees provided for in this article, subject to the supervision and orders of the County Board of Education.’

Section 21–230 enumerates the general powers of Boards of Trustees. Although specific powers are separately itemized, these can be generally considered to be included in subdivision (7) which provides that the Board of Trustees shall control the educational interest of the District. The basic governing authority of school districts in this State is vested in the Board of Trustees which, by the provisions of Section 21–221, are ‘subject to the supervision and orders of the County Board of Education.’ It is my opinion that the meaning to be given to the power vested in the County Boards of Education is set forth in [Pressley v. Nunnery, County Superintendent of Education](#), 169 S.C. 509, 169 S.E. 413:

‘—The evident purpose of the supervision provided for is merely to vest the County Board of Education with the authority of an appellate tribunal—.’

This observation was made by the Supreme Court in the construction of a statute similar to Section 21–221 but I consider it to be controlling in the construction to be given that statute in view of the nearly identical language contained in each statute. In my opinion, because of the initial authority vested in the Board of Trustees, that body cannot be divested of its statutory authority to manage and control the school district by the issuance of a moratorium which would preclude any such original action by the Board of Trustees. The Board has the authority to exercise its proper functions and only when these functions are exercised does the authority to supervise and control by the Board of Education come into play.

I am therefore of the opinion that the County Board of Education was without authority to issue the moratorium recited above. Once action has been taken by the Board of Trustees, should it choose to act at all, then the County Board of Education can exercise whatever authority it may have in the matter.

With best wishes,

Very truly yours,

**\*2** Daniel R. McLeod  
Attorney General

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