

1975 S.C. Op. Atty. Gen. 87 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4016, 1975 WL 22313

Office of the Attorney General

State of South Carolina

Opinion No. 4016

April 8, 1975

*1 Mr. Victor Berry, Jr.
Superintendent
Dillon County Board of Education
Dillon, SC 29536

Dear Mr. Berry:

This is in response to your request of March 20, 1975, for the opinion of this Office as to whether it is the responsibility of the Dillon County Board of Education or the responsibility of local district boards of trustees to institute court proceedings under Section 21-757.4 of the Code of Laws of South Carolina aimed at enforcement of the Compulsory School Attendance Act.

The present enforcement provisions of The Compulsory Attendance Law, Section 21-757.4, South Carolina Code of Laws, 1962, provides:

If the board of trustees of a school district or its designee is unable to obtain the school attendance of a child in the age groups specified in § 21-757, the board or its designee shall report such nonattendance in writing to the juvenile court or such other court in the county as may have jurisdiction of juveniles but exclusive of magistrate's courts notwithstanding the provisions of Section 43-68; provided, that no one except the board of trustees or its designee shall have the authority to institute the proceedings herein.

Unlike the county unit system where the county board is the governing educational body for the county (see Opinion No. 2774, December 1, 1969, which essentially states that where a county educational system operates as a unit the county board of education has sole authority to institute proceedings under the Compulsory Attendance Law) the educational system of Dillon County operates as a multidistrict system, Section 21-2401, South Carolina Code of Laws, 1962. As such the district board of education is the governing body of the school district and Opinion No. 2774 does not apply even though a county board and superintendent exist. Section 21-2351 et. seq.. Consequently, the board of trustees, or its designee, for the various districts of Dillon County, being a body corporate, vested with the powers to do acts necessary to the establishment, maintenance and operations of the schools within the districts (Section 21-2401 and 21-2402), when exercising its executive powers as a school district [Section 21-230(3)], is thereby vested with the authority to institute actions under the Compulsory Attendance Law.

Sincerely,

Bruce E. Davis
Assistant Attorney General

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