1975 WL 28961 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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*1 An intermediate school board having general governing and supervisory powers has authority to terminate an employee hired by a subordinate board.

Question:

Does the Board of Trustees of Charleston County School District have authority to dismiss an employee hired by constituent trustees?

Authorities

Generally the authority to terminate an employee is implied from the power to employ, subject to any restrictions in contracts, statutes, and rules and regulations. 78 C.J.S., Schools, § 152 Termination of Employment.

1967 Act No. 340 establishes the Board of Trustees of Charleston County School District as the governing body (Section 2) and provides that the constituent districts employ personnel for their respecting areas 'subject to the approval of the Board of Trustees of the Charleston County School District' (Section 6).

State v. Daniel, 29 S.E. 633 (1898) holds that the enumerated powers of local boards are subordinate to the intermediate board where the statute makes such powers subject to its supervision and that the local board in such cases cannot disregard the action of the intermediate board.

Discussion

By statute the District Board has general supervisory power over the constituent boards and specific power over their employment of personnel. By implication, therefore, the District Board likewise has power over their termination of employees and the constituent boards cannot disregard the action of the district board when such board in effect withdraws its approval.

Conclusion

Since the initial employment by the constituent district board was with the approval of the Charleston District Board, the District Board can withdraw its approval and thereby terminate the employment of personnel employed by the constituent district.

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Assistant Attorney General

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