

1975 S.C. Op. Atty. Gen. 123 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4046, 1975 WL 22343

Office of the Attorney General

State of South Carolina

Opinion No. 4046

July 8, 1975

*1 County zoning regulations do not apply to a county school district.

TO: Joseph H. Earle, Jr.
Greenville County Attorney

E. P. Riley
Greenville County School District Attorney

QUESTION PRESENTED:

Is a school district immune from the operation of a county zoning ordinance?

STATUTES, CASES CITED:

Code of Laws of South Carolina, 1962, as amended, Sections 21–230 and 14–350.19 *et seq.*; South Carolina Constitution Article 11, Section 3; 36 ALR 2d 653, 61 ALR 2d 970; Attorney General's Opinions Nos. 2325, 1967–1968 and 1598, 1963–1964; [Law v. City of Spartanburg](#), 148 S.C. 229, 146 S.E. 12; [Brooks v. Motor Bus](#), 190 S.C. 379, 3 S.E.2d 42; [Patrick v. Maybank](#), 198 S.C. 262, 17 S.E.2d 530.

DISCUSSION OF ISSUES:

Article 11, Section 3 of the South Carolina Constitution charges the General Assembly with providing for the maintenance and support of a system of free public schools. Section 21–230, Code of Laws of South Carolina, 1962, as amended, requires the Trustees of the South Carolina School Districts to provide suitable school houses in the districts and manage, take care of and control school property.

Clearly this language demonstrates legislative delegation of authority to a state agency or subdivision. It has long been held that a school district is a political division of the state. See [Brooks v. Motor Bus](#), 190 S.C. 379, 3 S.E.2d 42 and [Patrick v. Maybank](#), 198 S.C. 262, 17 S.E.2d 530.

By Attorney Gen. Op. No. 1598, 1963–1964 and 2325, 1967–1968, (copies enclosed) this office expressed the view that the State and its counties are immune from municipal zoning regulations unless made specifically subject thereto by statutory enactment. The same logic should apply to an attempt by a county to regulate by zoning the activity of a school district. Such attempt would fail under the reasoning of [Law v. City of Spartanburg](#), *supra* and under the annotations and Attorney General's Opinions previously cited.

Such an attempt, if permitted, would allow a county to regulate the State function of education, and unless the State is specifically made subject to such regulations by statute, this attempt is void. No such statutory authority, either explicitly or implicitly granted, has been found to exist.

CONCLUSION:

The County School District, a State governmental body, is charged by law with protecting school property. To accomplish this objective placement of mobile homes on the property for resident security guards could be undertaken without regard to Greenville County zoning ordinances.

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