

1973 WL 26595 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 5, 1973

***1 Re: No. 256—Schools—General Subpoena Powers of School Boards No. 278—South Carolina Boards and Commissions—State Board of Education/Subpoena Powers**

Carl L. Holloway
Research Assistant on Legal Affairs
State Dept. of Education
Rutledge Building
Columbia, South Carolina

Dear Lee:

In answer to your request for an opinion relating to the subpoena powers inherent of school boards, more specifically the State Board of Education, I am of the opinion that administrative agencies do not have subpoena power unless such power is specifically granted. 'While administrative agencies may have implied as well as expressed investigatory powers, such powers are not unbounded but are exclusively derived from and limited by the authorizing statutes.' 1 Am. Jur. 2d, Administrative Law, Sec. 91. 'Although administrative officers do not have inherent power to require the attendance of witnesses before them, put witnesses under oath and require them to testify, this power, and the power to require the production of books, papers, and documents or other evidence are basic to the power of investigation, and it is common for statutes to confer such powers upon administrative agencies.' *Id.* Section 89.

It should be noted that specific subpoena powers are granted to both County Boards of Education and the State Board of Education under the provisions of Title 21, Chapter 12, Article 3 relating to remedy for discrimination against teachers in fixing salary. This specific grant of subpoena power to the County Boards and the State Board reinforces the idea that the legislature would have specifically provided for subpoena power if the legislature had deemed it desirable.

Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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