

1973 WL 26773 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 14, 1973

*1 Frank K. Hart
Superintendent
Marion School District One
616 Northside Avenue
Marion, S. C. 29571

Dear Mr. Hart:

Attorney General McLeod referred to me your request for an opinion on a school's authority to search a student's locker. In [Overton v. Rieger, 311 Fed. Supp. 1035 \(S.D.N.Y. 1970\)](#) a federal court in New York held in effect that a school official had the right to search student lockers and even consent to such search by police because of the affirmative obligation to supervise children in the retention of control retained by the school over lockers of students. In addition, the court indicated that there would also be the duty to inspect lockers where there was a suspicion that illegal or harmful objects may be contained therein.

I am somewhat concerned about your statement that students are allowed to purchase their own lock, since such a purchase tends to take the lockers out of the exclusive control of the school, regardless of what written policies the school may have. If the school intends on continuing such a practice, I recommend that the school require students to provide schools with a duplicate key and/or with combination to the lock. Furthermore, it would be best to provide same notice to the students as to this right of the school to search student lockers without the student's consent.

In conclusion, the school does have the authority to search a student's locker without the student's consent when the school in fact retains control over lockers.

Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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