



HENRY McMASTER  
ATTORNEY GENERAL

November 4, 2010

The Honorable J. Roland Smith  
Member, House of Representatives  
183 Edgar Street  
Warrenville, South Carolina 29851

Dear Representative Smith:

We received your letter requesting an opinion of this Office as to the interpretation of a provision contained in Senate Bill 442. In regard to this bill, you ask: “[D]oes the bill give county school boards the authority to allow the area advisory councils to hear cases pertaining to students in their school district. For example cases relating to suspensions, expulsions, etc.”

#### **Law/Analysis**

Senate Bill 442 (the “Bill”) states that it amends sections 15 and 16 of act 503 of 1982. Act 503 of 1982 established the School District of Aiken County (the “District”) and the Aiken County Board of Education (the “Board”). 1982 S.C. Acts 3384. A portion of this act gave the Board the authority to appoint area advisory councils for each administrative area of the District. Id. Section 15 of this act states as follows:

The Area Advisory Councils shall determine local policies in their respective administrative areas; provided, such policies are not inconsistent with the policies set forth by the County Board of Education. The County Board of Education may delegate additional authority to the Area Advisory Councils to the extent necessary for the effective operation of the public schools in the county.

Patrons of the schools in each administrative area shall present their grievances to their Area Advisory Council through their area superintendent. Appeals may be made to the County Board of Education.

Id. Bill 442 purports to amend this section by replacing it with the following language:

The area advisory councils may determine local policies in their respective administrative areas; provided, such policies are not

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inconsistent with the policies set forth by the county board of education. The county board of education may delegate additional authority to the area advisory councils to the extent necessary for the effective operation of the public schools in the county.

Patrons of the schools in each administrative area shall present their grievances to their area advisory council through their area superintendent. Appeals may be made to the county board of education.

We presume the crux of your question deals with the interpretation of the second paragraph in section 15. We note that this portion of the Bill appears to read exactly as it did under the 1982 legislation. Therefore, the authority given to the Board in 1982 would not change if the Legislature adopts the Bill. Nonetheless, we must interpret the language contained in this provision in order to answer your question.

“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). When interpreting a statute, our courts “give the words their plain and ordinary meaning without resorting to a tortured construction which limits or expands the statute’s operation. Statutes, as a whole, must receive practical, reasonable, and fair interpretation, consonant with the purpose, design, and policy of lawmakers.” Gattis v. Murrells Inlet VFW No. 10420, 353 S.C. 100, 113, 576 S.E.2d 191, 198 (Ct. App. 2003) (quotations and citations omitted). “Statutes should be construed with reference to the whole system of law of which they form a part, and must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. Pitman v. Republic Leasing Co., Inc., 351 S.C. 429, 431, 570 S.E.2d 187, 189 (Ct. App. 2002) (citations and quotations omitted).

Under South Carolina general law, school district boards of trustees have the authority to promulgate rules and regulations regarding student conduct and the authority to enforce such rules and regulations through suspensions, expulsions, and transfers of students. S.C. Code Ann. §§ 59-19-90 (2004); 59-63-210 (2004). Article 3 of chapter 63 of title 59 instructs on the process by which school district boards, and in some cases school administrators, can suspend, expel, or transfer students. Section 59-63-230 of the South Carolina Code (2004) requires school administrators to schedule a conference following the issuance of a notice of suspension. This provision also allows the student’s parents or legal guardian to “appeal the suspension to the board of trustees or to its authorized agent.” S.C. Code Ann. § 59-63-230. Section 59-63-240 of the South Carolina Code (2004) requires a hearing before a board can expel a student from school. In addition, this provision gives the student’s parent or legal guardian the right to appeal the suspension to the board of trustees. S.C. Code Ann. § 59-63-240. Section 59-63-250 of the South Carolina Code (2004), governing transfers, also contains a provision requiring a hearing and allows the student’s parent or guardian to appeal the decision to the board of trustees. Thus, the general law contains provisions allowing

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a student's parents or guardian to appeal disciplinary decisions to members of the school district's board of trustees.

The 1982 act does not specifically address what body or person has the authority to suspend, expel, transfer, or otherwise discipline students. However, one portion of the act states that the Board shall have administrative authority over the public schools located within the District. Furthermore, the 1982 act designates that the area advisory councils are to "determine local policies . . ." and gives them the authority hear grievances presented to them by patrons of the schools. The term "grievance," as used in the 1982 act is not defined. Nonetheless, in our review of the general law governing schools, we believe student discipline matters are the typical types of grievances that a student might bring before a school's administrative body. Thus, we believe the Legislature intended for this term to include an appeal brought by students as a result of a suspension, expulsion, or transfer. Thus, pursuant to 1982 act, we believe area advisory councils have authority to hear cases pertaining to student discipline. Furthermore, it is our understanding in speaking with you on the matter that the District interprets the 1982 act as giving the area advisory councils such authority.

### Conclusion

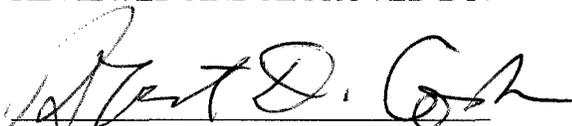
As noted above, in our examination of the Bill, we do not see any changes to the language in the 1982 act giving area advisory councils the authority to hear grievances. Therefore, we believe the authority given to the area advisory councils in this regard would not change by the passage of the Bill. Furthermore, based on the general authority given to boards of trustees with regard student discipline, we believe the Legislature intended for the term grievances, as used in the 1982 legislation and the Bill, to include appeals from student disciplinary matters. Accordingly, to answer your question, are of the opinion that if the Legislature passes the Bill, area advisory councils will maintain their authority to hear cases pertaining to student discipline.

Very truly yours,

Henry McMaster  
Attorney General

  
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Assistant Attorney General

REVIEWED AND APPROVED BY:

  
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Deputy Attorney General