

May 2, 2007

Marvin B. Stewart, Chairman
Charleston County Constituent School Board District 20
55 Elizabeth Street
Charleston, South Carolina 29403

Dear Mr. Stewart:

We understand you request an opinion on behalf of the Charleston County Constituent Board District 20 (the "District 20 Board") concerning the recent hire of a principal by the Board of Trustees for the Charleston County School District (the "Board of Trustees"). In your letter, you provide the following information:

The superintendent of schools, Dr. Maria Goodloe-Johnson recently approved having the principal of Sanders-Clyde Elementary School, Ms. Marshana Moore assume similar duties at Frasier Elementary beginning next school year. She will, in effect, be principal to two schools. That is not the issue, however. The issue is the legality of such a decision. District 20 constituent board opposes the move as a clear violation of the act of consolidation.

Law/Analysis

The Legislature consolidated the school districts of Charleston County and created the Charleston County School District (the "District") by act 340 in 1967. 1967 S.C. Acts 470. This legislation established the Board of Trustees as the governing body for the consolidated districts. Id. Although all eight of the school districts located in Charleston County were consolidated into one district, the Legislature created special districts for administrative purposes, referred to as constituent districts, based on the eight former school districts. Id. In addition, the legislation called for the boards of trustees of the former districts to continue to serve as the boards of trustees for the constituent districts. Id.

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The act contains a provision dealing with the employment of teachers and other personnel. This provision, as originally enacted, stated: “The teachers and other constituent district personnel necessary for the efficient operation of the schools in each constituent district shall be employed by the trustees thereof, subject to the approval of the Board of Trustees of the Charleston County School District.” Id. However, by act 721 in 1978, the Legislature amended this provision to state: “The teachers and other constituent district personnel necessary for the efficient operation of the schools in each constituent district, except for school principals, shall be employed by the trustees thereof, subject to the approval of the Board of Trustees of the Charleston County School District.” 1978 S.C. Acts 2370 (emphasis added). By the same act, the Legislature amended the powers and duties originally given to the Board of Trustees to include the power to “[a]ppoint the principles of all school districts in Charleston County from among three qualified persons recommended by the trustees of the constituent school district in which the particular school is located.” Id. Moreover, the enabling legislation also contains a provision concerning the transfer of teachers and other professional employees among constituent districts. 1967 S.C. Acts 470. This provision states: “No teacher or other professional employee shall be transferred from one constituent district to another without the approval of such employee, the Board of Trustees of the Charleston County School District, and the trustees of each of the constituent districts involved.” Id.

In your letter, you indicate the superintendent of the Charleston County School District gave approval for Ms. Moore to serve as principal of Frasier Elementary School (“Frasier”). The District’s enabling legislation contains a provision as to the superintendent’s position, stating that such an individual is appointed by the Board of Trustees. 1967 S.C. Acts 470. The enabling legislation also describes the superintendent’s duties as follows: “The Superintendent of education by the general laws of the state, shall perform such other duties as shall be prescribed by the Board of Trustees of the Charleston County School District.” However, we found no provision describing the superintendent’s role in the appointment of principals. While pursuant to the enabling legislation, the Board of Trustees may give certain responsibilities to the superintendent, we do not believe the Board of Trustees may override other provisions of the enabling legislation concerning the employment of principals.

Because Ms. Moore currently serves and will continue to serve as principal of Sanders-Clyde Elementary School (“Sanders-Clyde”) while acting as principal of Frasier, we are unsure from your letter as to whether assumption of the position at Frasier is a transfer or an appointment to a new position. If her assumption of the position at Frasier is a transfer, and Frasier and Sanders-Clyde are not within the same constituent district, not only must the Board of Trustees and the Ms. Moore agree to the transfer, but the boards of the constituent districts in which Frasier and Sanders-Clyde are located must also approve the transfer. If the employment of Ms. Moore at Frasier constitutes an appointment of a new principal, the District’s enabling legislation requires she be one of three

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qualified persons recommended by the constituent district's board of trustees and be chosen by the Board of Trustees.

Very truly yours,

Henry McMaster
Attorney General

By: Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General