

1981 WL 158094 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 16, 1981

\*1 Honorable Philip T. Bradley  
Member  
House of Representatives  
The State Capitol  
Columbia, South Carolina

Honorable Beattie E. Huff  
Member  
House of Representatives  
The State Capitol  
Columbia, South Carolina

Dear Representatives Bradley and Huff:

Reference is made to Representative Bradley's letter of July 15, 1981, and to subsequent telephone communication clarifying questions relating to whether Greenville County School District can employ a registered architect as a full-time employee, and utilize architectural plans developed by an independent architect for the construction of a number of future school construction projects.

The recently enacted South Carolina Consolidated Procurement Code does not apply to the procurement of architectural services by local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts. See sub-Article V, Sections 18, 29, and 33, South Carolina Consolidated Procurement Code. There is no statutory or regulatory prohibition against employment of a registered architect as an employee of the Greenville County School District and such registered architect would be authorized to adapt plans for a given school project, subject to the qualification that structural, mechanical, electrical and related engineering work would have to be designed by a registered professional engineer.

In connection with the foregoing, I invite your attention to R 43-190, contained in the Supplement to Volume 24 of the 1976 Code, to the effect that the State Board of Education requires all new school facilities and sites to meet minimum requirements listed in 'South Carolina School Facilities Planning and Construction Guide' and 'South Carolina Guide and Minimum Specifications for Construction of Relocatable Classroom Buildings,' and 'Kindergarten Facilities Guidebook.' These requirements apply to elementary schools, middle schools, and secondary schools. Chapter 1.100, relating to 'Architect,' as contained in the 'South Carolina School Facilities Planning and Construction Guide' states that 'all new buildings and additions and/or renovations to existing buildings concerning the public education program in South Carolina must have plans and specifications prepared by an architect experienced in and legally qualified to practice in South Carolina.' Chapter 2.100 states that preliminary drawings as prepared by the architect and/or engineer shall be submitted to the Office of School Planning and Building in duplicate for review and approval, with certain additional requirements not applicable to this opinion stated as the requisite contents for such preliminary plans. Written approval on the preliminary plans must be received before the school district can proceed with the final plans and specifications. See Section 2-101, South Carolina School Facilities Planning and Construction Guide, adopted by the State Board of Education and referred to in R 43-190. However, the 'South Carolina School Facilities Planning and Construction Guide' does not require an independent architect for the design of plans and specifications for a school project and there is no regulatory prohibition against an in-house architect, provided that such architect is experienced in and legally qualified to practice in South Carolina.

\*2 The further question whether architectural plans developed by an independent architect for the construction of one school could be utilized for the subsequent construction of other schools would depend upon whether the school district acquired ownership of the plans and specifications, as contrasted to ownership by the architect who prepared such plans and specifications. The ownership of the plans and specifications by Greenville County School District could be specifically provided for in the contract for the preparation of the prototype plan, and any subsequent use of those plans would be by the School District, as its plans, with the registered full-time architect employee of the School District being identified on the plans as the architect.

In summary, it is our opinion that Greenville County School District can employ a full-time registered architect as School District employee and that architectural plans prepared for one school could be used on follow-up construction projects for other schools, upon agreement with the initial architect that the plans and specifications become the property of the Greenville School District. This opinion has the concurrence of the State Engineer and attorneys representing the Department of Education. Please contact me if additional clarification or documentation is desired.

Yours very truly,

Victor S. Evans  
Deputy Attorney General

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