

1973 WL 27033 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 16, 1973

*1 The Honorable R. Markley Dennis
County Attorney
Messrs. Dennis & Dennis
Attorney at Law
337 E. Main Street
Moncks Corner, South Carolina 29461

Dear Mr. Dennis:

You have requested the opinion of this Office as to whether the County Board of Education for Berkeley County has the authority to exercise the powers granted to school trustees generally by the provisions of Section 21-238, Code of Laws, 1962.

Section 21-238 basically empowers the school trustees of the several school districts to sell or lease school property in their school district whenever they deem it expedient to do so.

Berkeley County consists of a single school district and makes provision for the selection of a County Board of Education which is vested with the general powers of County Boards of Education and is designated as ex officio the trustees of the school district of Berkeley County, possessing all powers vested in school trustees by general or special law. Sections 21-1452, 1453, Code of Laws, 1962, as amended. See also Section 21-230.1.

With respect to the four Administrative Areas, other than Hanahan Administrative Area, it is my opinion that the County Board of Education clearly possesses all of the powers granted to school trustees generally by the provisions of Sections 21-238 and 21-230.1.

Insofar as Hanahan is concerned, a more difficult question is presented. Originally, the County Board of Education was directed to divide the Berkeley County School District into four Administrative Areas; subsequently, in 1962, the number of Administrative Areas was increased to five by the addition of Hanahan Administrative Area, which was specifically, designated as being composed of the area included in the Hanahan Public Service District. By the same Act, the County Board of Education was vested with the general powers of school trustees. In 1971 an Act approved July 7, 1971, was adopted, which provides: 'All schools located within the boundaries of the former Moncks Corner, Cross, St. Stephen, and Macedonia Administrative Areas shall be directly under the management and control of the County Board of Education. The Hanahan Administrative Area Shall remain as previously established.'

The effect of this Act, in my opinion, is to vest some degree of autonomy in the Hanahan Administrative Area, but I do not believe it has the effect of superseding, in all respects, the status of the County Board of Education as the Board of Trustees of the School District of Berkeley County. The management and control of Hanahan is apparently vested, to some extent, in its advisory board of trustees, but that board has not been specifically given the powers to act generally as school trustees, whereas the County Board of Education has such authority unless it is restricted by implication, to the four Administrative Areas other than Hanahan. Undoubtedly, the County Board does not have the authority to alter the territory to be included within the Hanahan Administrative Area, but I do not believe that the 1971 Act has the effect of depriving the County Board of authority from exercising the powers vested in boards of trustees by the provisions of Section 21-238. The point is admittedly a close one.

*2 It is therefore my opinion that the County Board of Education of Berkeley County has the authority to exercise in the Berkeley County School District all powers enumerated in Section 21-238. With respect to Hanahan, some doubt exists, but it is my opinion that the County Board has this authority in that area also.

Very truly yours,

Daniel R. McLeod
Attorney General

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