CHAPTER 19

School Trustees

ARTICLE 1

General Provisions

**SECTION 59‑19‑10.** School districts shall be under management of boards of trustees.

 Each school district shall be under the management and control of the board of trustees provided for in this article, subject to the supervision and orders of the county board of education.

HISTORY: 1962 Code Section 21‑221; 1952 Code Section 21‑221; 1942 Code Section 5328; 1932 Code Section 5354; Civ. C. ‘22 Section 2601; Civ. C. ‘12 Section 1740; Civ. C. ‘02 Section 1206; 1896 (21) 162; 1919 (31) 78.

CROSS REFERENCES

Appeals to county board of education, see Sections 59‑19‑510 et seq.

Authority of district boards of trustees to provide for disciplinary action, see Sections 59‑63‑210 et seq.

Board as advisory body to county superintendent, see Section 59‑15‑20.

Oath required of members of boards of trustees, see Section 59‑15‑50.

LIBRARY REFERENCES

Schools 55.

Westlaw Key Number Search: 345k55.

C.J.S. Schools and School Districts Sections 15 to 17, 142 to 145, 147, 206, 254, 356, 401.

Attorney General’s Opinions

Discussion of the authority of the Trustees of the Charleston County School District with respect to the various constituent school districts of Charleston County and issues relating to magnet schools, school bus transportation, and student discipline. S.C. Op.Atty.Gen. (April 12, 2016) 2016 WL 1711847.

Whether members of the eight constituent district boards of trustees of Charleston County are considered school trustees. S.C. Op.Atty.Gen. (March 6, 2015) 2015 WL 1266150.

In regards to a policy requiring visitors of public schools in Spartanburg School District Three to show identification for scanning upon entering the premises, a court would balance any conceivable interests of visitors, against the School District’s substantial interests related to protecting and maintaining the learning environment of a school and the safety and welfare of its students, in favor of the latter. S.C. Op.Atty.Gen. (August 25, 2011) 2011 WL 3918179.

Taxes levied and collected by a school district on property located within that district cannot be diverted or transferred to another school district. 1989 Op Atty Gen, No. 89‑18, p 50.

Trustees of a school area in Jasper County cannot prevent the transfer by county board of education of pupil from school within the area to another within the county. 1967‑68 Op Atty Gen, No 2582, p 285.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Hughes v School Dist. (1903) 66 SC 259, 44 SE 784. Brown v County Board of Education (1938) 186 SC 325, 195 SE 642.

The School Board is the final policymaker of a district with regard to employment and discharge of teachers. If the board approves a subordinate’s decision and the basis for it, the board’s ratification is chargeable to the district. Hall v. Marion School Dist. No. 2, 1993, 860 F.Supp. 278, affirmed 31 F.3d 183.

School trustees are legislative officers whose terms may be ended or extended at the will of the legislature. Walpole v. Wall (S.C. 1929) 153 S.C. 106, 149 S.E. 760. Education 87(5); Public Employment 142

“Management and control” do not import any power beyond that demanded from their ordinary meaning. Young v. Trustees of Fountain Inn Graded School (S.C. 1902) 64 S.C. 131, 41 S.E. 824.

**SECTION 59‑19‑20.** Composition of boards of school trustees; terms.

 Unless it be specially provided otherwise by law, the boards of school trustees in this State shall be composed of three members, each of whom when appointed, pursuant to the terms hereof, shall hold office for a term of three years.

HISTORY: 1962 Code Section 21‑222; 1952 Code Section 21‑222; 1942 Code Section 5343; 1932 Code Section 5369; Civ. C. ‘22 Section 2615; Civ. C. ‘12 Section 1752; Civ. C. ‘02 Section 1210; 1903 (23) 64; 1904 (23) 528; 1906 (24) 31; 1914 (28) 480, 567; 1915 (29) 106; 1917 (30) 306; 1918 (30) 3; 1919 (31) 209, 212, 653; 1920 (31) 837; 1921 (32) 93; 1922 (32) 768, 784; 1926 (34) 1017; 1927 (35) 244, 259; 1928 (35) 1197; 1930 (36) 1307, 1518, 1960; 1933 (38) 493; 1937 (40) 235, 579.

CROSS REFERENCES

Commencement of trustee’s term of office, see Section 59‑19‑315.

Compensation of trustees, see Section 59‑1‑350.

LIBRARY REFERENCES

Schools 53(4).

Westlaw Key Number Search: 345k53(4).

C.J.S. Schools and School Districts Sections 116, 138 to 139.

Attorney General’s Opinions

An individual’s service as a Colleton County School Board Trustee and as a Colleton County Sheriff’s Deputy would most likely violate the prohibition against dual office holding. S.C. Op.Atty.Gen. (May 20, 2014) 2014 WL 2591468.

State law does not appear to authorize school board to call for referendum concerning method of election of its members or to request county election commission to put such question on ballot of next general election. A court would likely conclude that such referendum would be of no effect. In any event, referendum could not be used to change law enacted by General Assembly absent express authorization from legislature. 1991 Op Atty Gen, No. 91‑12 p 46.

Bill No. H‑3314 providing that all members of the Boards of Trustees for School Districts shall be elected is constitutional. 1975‑76 Op Atty Gen, No 4275, p 92.

The proposed bill providing for the election of three School Trustees from single member districts, the appointment of three School Trustees from each of the election districts by the Governor, and the appointment of one School Trustee from the county at large by the Governor is constitutional. 1975‑76 Op Atty Gen, No 4278, p 93.

An active trustee of Lexington County School District Number 3 may retain the position of trustee after accepting employment as assistant of a high school in Lexington County School District Number 1. 1975‑76 Op Atty Gen, No 4539, p 407.

NOTES OF DECISIONS

In general 2

Validity 1

1. Validity

This section [Code 1962 Section 21‑222] is not violative or SC Const, Art 3, Section 34, subdiv. 9, prohibiting the enactment of special laws where the general law can be made applicable. State v. Meares (S.C. 1928) 148 S.C. 118, 145 S.E. 695.

2. In general

For additional related cases, see Ex parte Alverson (1923) 123 SC 539, 117 SE 316. Welch v Getzen (1910) 85 SC 156, 67 SE 294. Hughes v School Dist. (1903) 66 SC 259, 44 SE 784. Young v Fountain Inn Graded School (1902) 64 SC 131, 41 SE 824.

Quoted in Craig v. Bell (S.C. 1948) 211 S.C. 473, 46 S.E.2d 52.

Applied in Becknell v. Waters (S.C. 1930) 156 S.C. 77, 152 S.E. 816.

**SECTION 59‑19‑30.** Appointment of members.

 The original trustees having been appointed for terms of one, two and three years, respectively, the county boards of education shall, during the first week of April in each year, appoint one trustee for each district from the qualified electors and taxpayers residing in the district for which the appointment is made to succeed the trustee whose term expires during that year and to serve with the holdover members until his successor has been appointed and qualified.

HISTORY: 1962 Code Section 21‑223; 1952 Code Section 21‑223; 1942 Code Section 5343; 1932 Code Section 5369; Civ. C. ‘22 Section 2615; Civ. C. ‘12 Section 1752; Civ. C. ‘02 Section 1210; 1903 (23) 64; 1904 (23) 528; 1906 (24) 31; 1914 (28) 480, 567; 1915 (29) 106; 1917 (30) 306; 1918 (30) 3; 1919 (31) 209, 212, 653; 1920 (31) 837; 1921 (32) 93; 1922 (32) 768, 784; 1926 (34) 1017; 1927 (35) 244, 259; 1928 (35) 1197; 1930 (36) 1307, 1518, 1960; 1933 (38) 493; 1937 (40) 235, 579.

LIBRARY REFERENCES

Schools 53(1).

Westlaw Key Number Search: 345k53(1).

C.J.S. Schools and School Districts Sections 117 to 132.

NOTES OF DECISIONS

In general 1

1. In general

De facto trustee. One appointed a trustee of a school district, though under this section [Code 1962 Section 21‑223] not qualified to act as such because not a qualified elector of the district, is a de facto trustee. Dove v. Kirkland (S.C. 1912) 92 S.C. 313, 75 S.E. 503. Education 87(4); Public Employment 232(1)

**SECTION 59‑19‑40.** Appointment of members; special provisions shall not be superseded by Section 59‑19‑30.

 The provisions of Section 59‑19‑30 shall neither repeal, supersede nor annul any special act providing for the appointment or election of school trustees in any school district or in any of the several counties of the State.

HISTORY: 1962 Code Section 21‑224; 1952 Code Section 21‑224; 1942 Code Section 5343; 1932 Code Section 5369; Civ. C. ‘22 Section 2615; Civ. C. ‘12 Section 1752; Civ. C. ‘02 Section 1210; 1903 (23) 64; 1904 (23) 528; 1906 (24) 31; 1914 (28) 480, 567; 1915 (29) 106; 1917 (30) 306; 1918 (30) 3; 1919 (31) 209, 212, 653; 1920 (31) 837; 1921 (32) 93; 1922 (32) 768, 784; 1926 (34) 1017; 1927 (35) 244, 259; 1928 (35) 1197; 1930 (36) 1307, 1518, 1960; 1933 (38) 493; 1937 (40) 235, 579.

LIBRARY REFERENCES

Schools 53(1).

Westlaw Key Number Search: 345k53(1).

C.J.S. Schools and School Districts Sections 117 to 132.

NOTES OF DECISIONS

In general 1

1. In general

Quoted in Craig v. Bell (S.C. 1948) 211 S.C. 473, 46 S.E.2d 52.

**SECTION 59‑19‑45.** Orientation for school district boards of trustees and county boards of education.

 (A) Within one year of taking office, all persons elected or appointed as members of a school district board of trustees after July 1, 1997, shall complete successfully an orientation program in the powers, duties, and responsibilities of a board member including, but not limited to, topics on policy development, personnel, superintendent and board relations, instructional programs, district finance, school law, ethics, and community relations.

 (B) The orientation shall be approved by the State Board of Education and conducted by public or private entities approved by the State Board of Education such as the South Carolina School Boards Association.

 (C) The provisions of this section also apply to members of county boards of education appointed or elected after July 1, 1997, in the same manner the provisions of this section apply to members of school district boards of trustees.

 (D) The provisions of this section do not apply to a school board trustee or county board of education member who was serving in such office on July 1, 1997, and who is continuously reelected or reappointed to office thereafter.

 (E) The State Department of Education shall reimburse a school district or county board of education conducting an orientation for a new board member as required by this section at the rate of eighty dollars for a member, provided that the total reimbursements by the department in one fiscal year must not exceed ten thousand dollars. If the total projected cost of these reimbursements for a year as determined by the department exceeds ten thousand dollars, the eighty‑dollar reimbursement for each new member must be reduced proportionately. If funds are not available for these reimbursements, the board member orientation is not required but may be conducted at the option of a school district or county board of education. The State Board of Education shall establish guidelines and procedures for these reimbursements.

 (F) The State Department of Education must keep a record of the school board trustees who complete the orientation program.

HISTORY: 1997 Act No. 155, Part II, Section 19A; 2002 Act No. 265, Section 1.

Attorney General’s Opinions

Orientation would be required for the trustees of both the Charleston County School District and the constituent districts. S.C. Op.Atty.Gen. (March 6, 2015) 2015 WL 1266150.

**SECTION 59‑19‑50.** Appointment and term of trustees for consolidated districts.

 When school districts are consolidated, the county board of education shall appoint, from within the consolidated district, five trustees to serve as trustees of the new district, two for a term of one year, two for a term of two years and one for a term of three years. Thereafter the successors of all such trustees shall be elected for a term of three years or be appointed as provided by law.

HISTORY: 1962 Code Section 21‑224.1; 1952 Code Section 21‑224.1; 1951 (47) 546.

LIBRARY REFERENCES

Schools 53(1).

Westlaw Key Number Search: 345k53(1).

C.J.S. Schools and School Districts Sections 117 to 132.

Attorney General’s Opinions

County legislature may change the term of an office that it has created, or postponed the date of an election for the office of school district trustee. 1983 Op Atty Gen, No. 83‑2, p. 13.

**SECTION 59‑19‑60.** Removal of trustees; vacancies.

 School district trustees shall be subject to removal from office for cause by the county boards of education, upon notice and after being given an opportunity to be heard by the county board of education. Any such order of removal shall state the grounds thereof, the manner of notice and the hearing accorded the trustee, and any such trustee shall have the right to appeal to the court of common pleas, as provided in Section 59‑19‑560. Vacancies occurring in the membership of any board of trustees for any cause shall be filled for the unexpired term by the county board of education in the same manner as provided for full‑term appointments.

HISTORY: 1962 Code Section 21‑225; 1952 Code Section 21‑225; 1942 Code Section 5343; 1932 Code Section 5369; Civ. C. ‘22 Section 2615; Civ. C. ‘12 Section 1752; Civ. C. ‘02 Section 1210; 1903 (23) 64; 1904 (23) 528; 1906 (24) 31; 1914 (28) 480, 567; 1915 (29) 106; 1917 (30) 306; 1918 (30) 3; 1919 (31) 209, 212, 653; 1920 (31) 837; 1921 (32) 93; 1922 (32) 768, 784; 1926 (34) 1017; 1927 (35) 244, 259; 1928 (35) 1197; 1930 (36) 1307, 1518, 1960; 1933 (38) 493; 1937 (40) 235, 579; 1961 (52) 416.

LIBRARY REFERENCES

Schools 53(5).

Westlaw Key Number Search: 345k53(5).

C.J.S. Schools and School Districts Sections 133 to 137.

Attorney General’s Opinions

Discussion of the authority of the Trustees of the Charleston County School District with respect to the various constituent school districts of Charleston County and issues relating to magnet schools, school bus transportation, and student discipline. S.C. Op.Atty.Gen. (April 12, 2016) 2016 WL 1711847.

The Clarendon County Board of Education cannot remove the Clarendon School District Two trustee from office because there has not been a hearing with notice, and there is not cause to remove the school board member since the member has been charged with but not convicted of petit larceny and impersonating a police officer. 2015 S.C. Op.Atty.Gen. (January 14, 2015) 2015 WL 3533905.

The Governor has the authority to suspend a member of a school district Board of Trustees who has been indicted for mail fraud. 1975‑76 Op Atty Gen, No 4503, p 361.

A District School Board seat is considered vacant if a member moves from within the District. 1974‑75 Op Atty Gen, No 3957, p 29.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Brown v. County Bd. of Ed. for Williamsburg County (S.C. 1938) 186 S.C. 325, 195 S.E. 642.

**SECTION 59‑19‑70.** Chairman and clerk of board.

 The trustees shall, as soon as practicable after the appointment of any new trustee, organize by the election of one of their members as chairman and another as clerk of the board. The chairman shall preside at meetings of the board and perform other duties imposed on him under the law, and the clerk shall keep a record of the proceedings of all meetings in a book provided for that purpose and perform all other duties required of him by law.

HISTORY: 1962 Code Section 21‑226; 1952 Code Section 21‑226; 1942 Code Section 5343; 1932 Code Section 5369; Civ. C. ‘22 Section 2615; Civ. C. ‘12 Section 1752; Civ. C. ‘02 Section 1210; 1903 (23) 64; 1904 (23) 528; 1906 (24) 31; 1914 (28) 480, 567; 1915 (29) 106; 1917 (30) 306; 1918 (30) 3; 1919 (31) 209, 212, 653; 1920 (31) 837; 1921 (32) 93; 1922 (32) 768, 784; 1926 (34) 1017; 1927 (35) 244, 259; 1928 (35) 1197; 1930 (36) 1307, 1518, 1960; 1933 (38) 493; 1937 (40) 235, 579.

LIBRARY REFERENCES

Schools 57.

Westlaw Key Number Search: 345k57.

C.J.S. Schools and School Districts Sections 148 to 152, 155.

Attorney General’s Opinions

Chairman of the Dorchester County School District No. 4 Board of Trustees may have exceeded his authority in assigning seats for board members at the meetings. S.C. Op.Atty.Gen. (April 14, 2017) 2017 WL 1528199.

If a board member refuses to comply with a procedural rule, the chairman cannot mark him absent or prevent him from voting; however, the chairman has authority to prohibit a board member from participating, or speaking, during a meeting if that board member refuses to comply with the school board’s procedural rule requiring all board members to sit at the table. S.C. Op.Atty.Gen. (April 14, 2017) 2017 WL 1528199.

**SECTION 59‑19‑80.** Requirements as to purchases and teacher employment.

 No teacher or other employee shall be employed or any purchase made except in a duly called meeting of the board, of which meeting each member has been notified in writing by the clerk of the board at least three days in advance thereof, unless a written waiver of such notice of meeting is signed by each member of the board, and unless such action or the memoranda of the terms of any such contract of employment or purchase shall be duly recorded in the minutes of such meeting and approved by the board. No contract shall be entered into with teachers who are under a teaching contract in South Carolina before April fifteenth of each year. In lieu of making a particular purchase, the board may request the Purchasing and Property Division of the Department of Administration to make such purchase.

HISTORY: 1962 Code Section 21‑228; 1952 Code Section 21‑228; 1942 Code Section 5343; 1932 Code Section 5369; Civ. C. ‘22 Section 2615; Civ. C. ‘12 Section 1752; Civ. C. ‘02 Section 1210; 1903 (23) 64; 1904 (23) 528; 1906 (24) 31; 1914 (28) 480, 567; 1915 (29) 106; 1917 (30) 306; 1918 (30) 3; 1919 (31) 209, 212, 653; 1920 (31) 837; 1921 (32) 93; 1922 (32) 768, 784; 1926 (34) 1017; 1927 (35) 244, 259; 1928 (35) 1197; 1930 (36) 1307, 1518, 1960; 1933 (38) 493; 1937 (40) 235, 579; 1964 (53) 1883; 1965 (54) 274.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Employment and dismissal of teachers, see Section 59‑25‑410 et seq.

LIBRARY REFERENCES

Schools 80(1).

Westlaw Key Number Search: 345k80(1).

C.J.S. Schools and School Districts Sections 406 to 408, 415 to 416, 443, 761.

Attorney General’s Opinions

Teaching contract not to exceed one year. A county board of education may not enter into contracts of employment with teachers in excess of one year. 1966‑67 Op Atty Gen, No 2373, p 221.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Dukes v. Smoak (S.C. 1936) 181 S.C. 182, 186 S.E. 780.

**SECTION 59‑19‑90.** General powers and duties of school trustees.

 The board of trustees shall also:

 (1) Provide schoolhouses. Provide suitable schoolhouses in its district and make them comfortable, paying due regard to any schoolhouse already built or site procured, as well as to all other circumstances proper to be considered so as best to promote the educational interest of the districts;

 (2) Employ and discharge teachers. Employ teachers from those having certificates from the State Board of Education, fix their salaries and discharge them when good and sufficient reasons for so doing present themselves, subject to the supervision of the county board of education. In reaching a decision as to whether or not to employ any person qualified as a teacher, consideration may be given to the residence of such person but it shall not be the deciding factor or a bar to employing such person.

 (3) Promulgate rules and regulations. Promulgate rules prescribing scholastic standards of achievement and standards of conduct and behavior that must be met by all pupils as a condition to the right of such pupils to attend the public schools of such district. The rules shall take into account the necessity of proper conduct on the part of all pupils and the necessity for scholastic progress in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that such rules may result in the ineligibility of pupils who fail to observe the required standards, and require the suspension or permanent dismissal of such pupils;

 (4) Call meetings of electors for consultation. Call meetings of the qualified electors of the district for consultation in regard to the school interests thereof, at which meetings the chairman or other member of the board shall preside, if present;

 (5) Control school property. Take care of, manage and control the school property of the district;

 (6) Visit schools. Visit the public schools within its district from time to time and at least once in every school term and take care that they are conducted according to law and with the utmost efficiency;

 (7) Control educational interest of district. Manage and control local educational interests of its district, with the exclusive authority to operate or not to operate any public school or schools;

 (8) Charge matriculation and incidental fees. Charge and collect matriculation and incidental fees from students; however, regulations or policies adopted by the board regarding charges and collections must take into account the students’ ability to pay and must hold the fee to a minimum reasonable amount. Fees may not be charged to students eligible for free lunches and must be reduced pro rata for students eligible for reduced price lunches;

 (9) Transfer and assign pupils. Transfer any pupil from one school to another so as to promote the best interests of education, and determine the school within its district in which any pupil shall enroll; and

 (10) Prescribe conditions and charges for attendance. Be empowered to prescribe conditions and a schedule of charges based on cost per pupil as last determined, for attendance in the public schools of the school district for

 (a) children of parents temporarily residing within the school district;

 (b) children whose parents or legal guardians live elsewhere but who are residing with residents of the school district; and

 (c) children of parents residing on Federal property or military or naval bases of the United States located within or adjacent to the boundaries of such school district; and

 (d) all other children specially situated and not meeting the eligibility requirements of Section 59‑63‑30, but who shall have petitioned the trustees in writing seeking permission to attend the public schools of the school district.

 (11) Provide school‑age child care program or facilities therefor. Provide:

 (a) a school‑age child care program for children aged five through fourteen years that operates before or after the school day, or both, and during periods when school is not in session;

 (b) a school‑age child care program that operates during periods when school is in session for students who are enrolled in a half‑day kindergarten program; or

 (c) classrooms, other space, or both, in a school for use by an organization that is operating a school‑age child care program before or after the school day, or both, and during periods when school is not in session for children aged five through fourteen years.

 All latchkey programs operating pursuant to this item must be licensed.

 (12) Establish the annual calendar. Have the authority to establish an annual school calendar for students, faculty, and staff to include starting dates, ending dates, holidays, make‑up days, in‑service days, and professional development days.

HISTORY: 1962 Code Section 21‑230; 1952 Code Section 21‑230; 1942 Code Section 5358; 1932 Code Sections 5384, 5596; Civ. C. ‘22 Sections 2616, 2630; Civ. C. ‘12 Sections 1753, 1761; Civ. C. ‘02 Sections 1211, 1218; Cr. C. ‘22 Section 452; 1896 (21) 165; 1920 (31) 1046; 1923 (33) 180; 1937 (40) 75; 1955 (49) 83; 1964 (53) 2171; 1978 Act No. 504; 1989 Act No. 189, Part II, Section 43 Sub 6; 1996 Act No. 458, Part II, Section 72; 2003 Act No. 21, Section 1, eff April 21, 2003; 2003 Act No. 89, Section 3, eff July 23, 2003.

Effect of Amendment

The first 2003, by Act No. 21, Section 1, amendment rewrote paragraph (8).

The second 2003, by Act No. 89, Section 3, amendment added item (12) relating to the board’s duty to establish the annual calendar.

CROSS REFERENCES

Charging tuition fees to public school students residing on a military base or other federal establishment, see Section 59‑73‑160.

Discipline of pupils generally, see Sections 59‑63‑210 et seq.

Employment and dismissal of teachers, see Section 59‑25‑410 et seq.

Provisions forbidding contributing to delinquency of minors not being applicable, see Section 16‑17‑490.

Right to appeal to county board of education on action taken by board of trustees of a school district, see Section 59‑19‑510.

LIBRARY REFERENCES

Schools 55.

Westlaw Key Number Search: 345k55.

C.J.S. Schools and School Districts Sections 15 to 17, 142 to 145, 147, 206, 254, 356, 401.

RESEARCH REFERENCES

Treatises and Practice Aids

17 Causes of Action 335, Cause of Action to Challenge Discharge of Public School Teacher on Grounds of Immoral or Criminal Conduct.

21 Causes of Action 423, Cause of Action to Challenge Discharge of Public School Teacher on Grounds of Incompetence.

1 Causes of Action 2d 311, Cause of Action to Challenge Discharge of Public School Teacher on Grounds of Reduction in Force.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual survey of South Carolina law, constitutional law. 41 S.C. L. Rev. 11 (Autumn 1989).

The barber and the board: Constitutional aspects of administrative regulation of a student’s hairstyle. 23 S.C. L. Rev. 150.

Attorney General’s Opinions

Discussion of the authority of the Trustees of the Charleston County School District with respect to the various constituent school districts of Charleston County and issues relating to magnet schools, school bus transportation, and student discipline. S.C. Op.Atty.Gen. (April 12, 2016) 2016 WL 1711847.

In regards to a policy requiring visitors of public schools in Spartanburg School District Three to show identification for scanning upon entering the premises, a court would balance any conceivable interests of visitors, against the School District’s substantial interests related to protecting and maintaining the learning environment of a school and the safety and welfare of its students, in favor of the latter. S.C. Op.Atty.Gen. (August 25, 2011) 2011 WL 3918179.

In the absence of any local legislation to the contrary, the determination of which school within the district a student meeting the eligibility requirements for attending the public schools of that district would attend is properly addressed by the board of trustees of that school district. S.C. Op.Atty.Gen. (May 20, 2011) 2011 WL 2214063.

Authority to discipline students. School superintendents have authority to make rules and regulations concerning discipline in their schools, which authority is derived through delegation of the powers vested in the board of trustees and can require students to conform to conventional or normally accepted hair styles as a reasonable regulation of proper order and discipline in their schools, and can suspend students from school until they receive a normal hair cut. 1965‑66 Op Atty Gen, No 2051, p 134.

School district may not deny use of its facilities on Sunday to church for services if usage meets certain requirements, unless school district does not permit any nonschool or nonstudent groups to use its facilities. 1990 Op Atty Gen No. 90‑21.

Remedial instruction appears to be required for all students who fail to pass the exit examination given in 1985‑86 and/or subsequent years. For these students, programs must be provided prior to the next time the examination is offered. The State Board of Education and local school districts appear to have reasonable discretion to ensure compliance with enrollment requirements for these programs. 1986 Op Atty Gen, No. 86‑27, p 91.

School districts cannot discharge teachers under contract provisions requiring loyal co‑operation and harmonious working relationships unless the teachers’ conduct otherwise constitutes sufficient cause for dismissal under statutory or constitutional provisions. 1983 Op Atty Gen, No. 83‑15, p. 28.

Contract language providing for salary reductions and layoffs upon losses in funding or changes in course programming cannot be invoked unless reasonable under the circumstances. 1983 Op Atty Gen, No. 83‑15, p. 28.

The State Board of Education, the County Superintendent of Education, and the District Board of Trustees, must exercise discretion in passing upon application for use of state and district funds for repairs and improvements on property that is leased by a school district. 1978 Op Atty Gen, No 78‑34, p 55.

A school district trustee has the authority to inspect records of the school district. 1976‑77 Op Atty Gen, No 77‑227, p 173.

The Greenville County Commission for Technical Education cannot designate the company from which an employee is to purchase an annuity contract. 1975‑76 Op Atty Gen, No 4292, p 111.

Because of the initial authority vested in a school district’s board of trustees, that body cannot be divested of its statutory authority to manage and control the school district by the issuance of a moratorium as to certain contractual matters from the County Board of Education. 1974‑75 Op Atty Gen, No 3977, p 51.

Code 1962 Section 21‑230(3) [Code 1976 Section 59‑19‑90(3)] is not intended to permit school officials to promulgate rules that would include smoking by pupils under 18 years of age. 1974‑75 Op Atty Gen, No 4014, p 86.

It is the responsibility of local school district boards within Dillon County to institute court proceedings aimed at the enforcement of the Compulsory School Attendance Act. 1974‑75 Op Atty Gen, No 4016, p 87.

The South Carolina Constitution, Article XI, Section 3, does not mandate totally free public education for every child in the state. Whether a fee may be charged depends on the nature of the fee and the authority under which it was created. 1974‑75 Op Atty Gen, No 4082, p 156.

Suspension or dismissal of married or pregnant students. A board of trustees or its equivalent of a school district may suspend or dismiss pupils who become married or pregnant only if it can be shown that these pupils interfere with and are detrimental to educational process of the district and suspension or dismissal is, therefore, necessary to promote the welfare of the greatest number. 1970‑71 Op Atty Gen, No 3191, p 163.

Review of trustees’ decision not to operate school. A decision by a school district board of trustees not to operate a school must be appealed directly to court of common pleas of the county, and is subject to review only on questions of law. 1969‑70 Op Atty Gen, No 2806, p 14.

Authority to impose schedule of charges. This section authorizes boards of trustees of school districts to impose schedule of charges for public school attendance unless residential requirements of Code 1962 Section 21‑752.1 are satisfied. 1969‑70 Op Atty Gen, No 2819, p 31.

School board may lease school’s facilities for other than school uses to the extent that such lease does not interfere with the operation of the school. 1969‑70 Op Atty Gen, No 2886, p 125.

Discretion of boards as to incidental use of school property. School boards have discretion to make any arrangements they see fit with regard to the incidental use of school property by private or public groups. This discretion is abused if the activities allowed are other than incidental and casual in nature. 1969‑70 Op Atty Gen, No 3014, p 298.

Purchase of annuity contracts. In school districts which have adopted “Tax Sheltered Annuity” plan, the employees have a right to purchase the annuity contract from any company which they desire so long as such company is licensed to do business in South Carolina. 1967‑68 Op Atty Gen, No 2493, p 166.

Transfer of pupil from school area. Trustees of a school area in Jasper County cannot prevent the transfer by county board of education of pupil from school within the area to another within the county. 1967‑68 Op Atty Gen, No 2582, p 285.

School district may not construct a dwelling house for use of superintendent of school system merely as an emolument of office. 1965‑66 Op Atty Gen, No 2163, p 294.

There appears to be no State statutes or other specific authority dealing with the sale or lease of advertising space on publicly owned county or municipal property, such as school property, to the private sector. However, once the use of public property is made available, First Amendment constitutional guarantees may be applicable. 1992 Op Atty Gen No 92‑69.

NOTES OF DECISIONS

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1. In general.

Applied in State ex rel. Windham v Dick (1926) 134 SC 46, 131 SE 772. Hughes v School Dist. (1903) 66 SC 259, 44 SE 784.

For additional related cases, see Re School Dist. (1929) 153 SC 222, 150 SE 776. Ex parte Sarratt (1916) 103 SC 525, 88 SE 259. Sarratt v Cash (1916) 103 SC 531, 88 SE 256. Tucker v Blease (1914) 97 SC 303, 81 SE 668. State v Elliott (1913) 94 SC 35, 77 SE 728. State ex rel. Bryson v Daniel (1898) 52 SC 201, 29 SE 633.

That school authorities have the right and the duty to screen the officials, teachers, and employees as to their fitness to maintain the integrity of the schools as a part of ordered society, cannot be doubted. Bradford v School Dist. (1966, CA4 SC) 364 F2d 185, 10 FR Serv 2d 1420. Williams v Sumter School Dist. (1966, DC SC) 255 F Supp 397. Rackley v School Dist. (1966, DC SC) 258 F Supp 676, 1 CCH EPD ¶9758, 54 CCH LC ¶9033.

The boards of trustees have the full responsibility of operating the public school systems under the laws of South Carolina. Rackley v. School Dist. No. 5, Orangeburg County, S. C. (D.C.S.C. 1966) 258 F.Supp. 676.

A parent or person in loco parentis has the right of appeal from any action of a board of trustees to the county board of education, and from there to the circuit court where the matter will be heard de novo by the circuit judge. This administrative procedure is afforded under this section [Code 1962 Section 21‑230] and Code 1962 Sections 21‑247, 21‑247.2 to 21‑247.5. Byrd v. Gary, 1960, 184 F.Supp. 388.

The standard of review in determining whether a school district properly exercised its discretion under Section 59‑19‑90 is whether the action measures up to any fair test of reason; a clear abuse of discretion is required to justify judicial interference. Redmond v. Lexington County School Dist. No. Four (S.C. 1994) 314 S.C. 431, 445 S.E.2d 441.

Teacher was not entitled to expungement from his record of a 2 day suspension imposed during the 1983‑84 school term by a county school district because of the expiration of his teachers certificate, nor to recover for 2 days lost pay, even though the state Department of Education, after the expiration of the 1983‑84 school term, had recertified him retroactively to July 1, 1983. Singleton v. Horry County School Dist. (S.C.App. 1986) 289 S.C. 223, 345 S.E.2d 751.

School director whose conduct manifests evident unfitness for teaching is subject to immediate removal, after being given prior notice and opportunity for hearing, notwithstanding school board policy, following lead of Section 59‑25‑440, calling for written notice of reason that may lead to dismissal or nonrenewal and opportunity to correct problem; school director who, among other things, (1) reprimands teachers in presence of other teachers and students, referring to them as “stupid,” (2) hides employee’s keys knowing employee is looking for them, (3) foolishly and irresponsibly obstructs provision of emergency medical service for pregnant student suffering miscarriage and when told child has miscarried into commode reacts with callous expression of “that’s one more we won’t have to pay for,” and (5) addresses teachers with intemperate language on other occasions, resulting in school environment filled with turmoil, tension, conflict, and absence of trust and respect for director has manifested evidence unfitness for teaching. Kizer v. Dorchester County Vocational Educ. Bd. of Trustees (S.C. 1986) 287 S.C. 545, 340 S.E.2d 144.

The purpose of the supervision provided for in subd. 2 of this section [Code 1962 Section 21‑230] is to vest the county board of education with the authority of an appellate tribunal in the matters named. Pressley v. Nunnery (S.C. 1933) 169 S.C. 509, 169 S.E. 413.

2. Hiring of teachers.

The primary authority on the construction of this section [Code 1962 Section 21‑230] by the South Carolina Supreme Court is Re School Dist. (1929) 153 SC 222, 150 SE 776, which extensively limits the role of the county board in the employment or discharge of teachers. Rackley v. School Dist. No. 5, Orangeburg County, S. C. (D.C.S.C. 1966) 258 F.Supp. 676.

However wide the discretion of school boards as to employment of teachers, it cannot be exercised so as to arbitrarily deprive persons of their constitutional rights. Williams v. Sumter School Dist. No. 2 (D.C.S.C. 1966) 255 F.Supp. 397. Education 455; Public Employment 96

The right and power of the local board of trustees to select and employ teachers in the schools of its district and under its jurisdiction, being absolute, is subject only to confirmation and rejection by the county board of education. Williams v. Sumter School Dist. No. 2 (D.C.S.C. 1966) 255 F.Supp. 397. Education 455; Public Employment 71

Teacher Employment and Dismissal Act [Sections 59‑25‑410 through 59‑25‑530] was not so much intended to limit power to discharge teachers when good and sufficient reasons for so doing existed (as required by Section 59‑19‑90(2)), as it was intended to prevent its abuse. Adams v. Clarendon County School Dist. No. 2 (S.C. 1978) 270 S.C. 266, 241 S.E.2d 897. Education 570; Public Employment 252

Where county board of education neither approved nor disapproved election of teacher by school trustees, status of teacher under contract of employment remained unaffected, entitling teacher to payment for services. Pressley v. Nunnery (S.C. 1933) 169 S.C. 509, 169 S.E. 413. Education 510; Public Employment 351

3. Discharge of teachers

Where a school board was apprised of and condoned the superintendent’s actions against a teacher in retaliation for the teacher’s exercise of her first amendment rights, and where it was aware of the superintendent’s plans to terminate her for improper reasons, the board’s dismissal of the teacher constituted an unconstitutional ratification of the superintendent’s unconstitutional behavior. Hall v. Marion School Dist. No. 2 (C.A.4 (S.C.) 1994) 31 F.3d 183.

Trustees have the statutory duty and responsibility of supervising the conduct of teachers and of dismissing them in proper cases. Bradford v. School Dist. No. 20, Charleston, S. C. (C.A.4 (S.C.) 1966) 364 F.2d 185.

A school board has a duty to the public to consider a teacher’s fitness to remain in a teaching position following his conviction in a municipal court on charges of being drunk, disorderly, and assaulting a police officer. Bradford v. School Dist. No. 20, Charleston, S. C. (C.A.4 (S.C.) 1966) 364 F.2d 185.

The boards of trustees are given discretionary power within the area or reason to discharge a teacher for cause when legally justifiable grounds exist, and to determine whether to continue such employment beyond the year in which a teacher has a contract. Rackley v. School Dist. No. 5, Orangeburg County, S. C. (D.C.S.C. 1966) 258 F.Supp. 676. Education 560; Public Employment 254

Where teacher’s trespass violations were outstanding when the Civil Rights Act of 1964 was signed into law, such violations could form no valid basis for her discharge from her teaching position by the school board. Rackley v. School Dist. No. 5, Orangeburg County, S. C. (D.C.S.C. 1966) 258 F.Supp. 676. Education 578; Public Employment 279

In line with the broad legislative grant of authority to school boards by Section 59‑19‑90(2), the authority of the judiciary to review district board decisions in matters brought pursuant to the Teachers Employment and Dismissal Act, Sections 59‑25‑10 et seq., is limited to determining whether the decision to terminate employment is supported by substantial evidence. Barr v. Board of Trustees of Clarendon County School Dist. No. 2 (S.C.App. 1995) 319 S.C. 522, 462 S.E.2d 316, rehearing denied, certiorari denied. Education 603(4); Public Employment 768(16)

Reason which may lead to termination of employment under Section 59‑25‑440 does not become good and sufficient reason under Section 59‑19‑90(2) until after reasonable time for improvement has been allowed; it is failure to improve which constitutes good and sufficient reason warranting termination of employment. Adams v. Clarendon County School Dist. No. 2 (S.C. 1978) 270 S.C. 266, 241 S.E.2d 897.

4. Right of tenure

There is no right of tenure provided for public school teachers under the South Carolina law. Rackley v. School Dist. No. 5, Orangeburg County, S. C. (D.C.S.C. 1966) 258 F.Supp. 676.

5. Regulation of conduct, dress, etc. of students

Children do not possess constitutional liberties accorded to adults. The general rule is that children do not actually possess all of the liberties of the person accorded to adults by the Bill of Rights. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

The rule as to marital privacy of married couple as to the use of contraceptives, as announced in Griswold v Connecticut (1965) 381 US 479, 14 L Ed 2d 510, 85 S Ct 1678 (distinguished as to claim to right to privacy in other non‑school matters in Whalen v Roe, 429 US 589, 51 L Ed 2d 64, 97 S Ct 869, and in Bedford v Sugarman, 112 Wash 2d 500, 772 P2d 486), cannot be expanded and extended into a right to appear in a public school as the pupil pleases. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

Expression supporting idea or ideology. Because of the failure of plaintiffs to pitch their case on expression of support of any idea or ideology, the case, therefore, does not involve rights akin to pure speech, and plaintiffs can find no constitutional shelter under the First Amendment. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

Conduct by the student in class or out of it, which for any reason ‑ whether it stems from time, place, or type of behavior ‑ materially disrupts classwork or involves substantial disorder or invasion of the rights of others, is not immunized by the constitutional guarantee of freedom of speech. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

Regulation giving fair notice and warning to students. Where the regulation together with the mode in which it is enforced gives more than fair notice and warning to the students, it is therefore sufficiently definite and certain to meet constitutional requirements. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

Regulation regarding hair length. In its contention regarding vagueness in a school regulations regarding hair length, plaintiff’s reliance upon the numerous cases involving the vagueness of criminal statutes was not well placed, because the regulation involved was not a punitive one, and ill consequences did not flow from an unintended breach, only from persistence in failing to comply after being given notice to do so. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

If a haircut regulation is otherwise valid, certainly suspension (not expulsion) from school until the pupil cuts his hair so that it complies with the regulation does not constitute cruel and unusual punishment. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729. Sentencing And Punishment 1589

The peaceful wearing of armbands in the school by students, thus evidencing their protest against continuation of hostilities in Vietnam, being entirely divorced from actual or potentially disruptive conduct by those participating in it, was closely akin to pure speech and entitled to comprehensive protection under the First Amendment, and the regulation prohibiting such wearing by the students violated the right of free speech under the First Amendment. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

Boycott by student body. Where school officials, with no intent to discriminate, took such action as in their discretion the situation required against students who had attempted to organize a boycott by the student body of a product served in the school’s cafeteria, such discretionary action is not subject to attack under the Federal Civil Rights Act. Byrd v. Gary, 1960, 184 F.Supp. 388. Civil Rights 1062

The general powers granted school trustees by this section [Code 1962 Section 21‑230] clearly permit trustees to delegate to a principal and an area superintendent authority to temporarily send a student home when, in the principal’s discretion, the best interests of the school require such action and to arrange a conference between the student and his parent and the superintendent, who can reinstate the child if he considers it proper or continue the temporary suspension and report the case with his recommendations to the board of trustees for disposition by written order. Byrd v. Gary, 1960, 184 F.Supp. 388.

Delegation of authority to suspend or dismiss pupils. The general powers granted to school trustees by this section [Code 1962 Section 21‑230] permit the trustees to delegate to the principal and superintendent of a school the authority to suspend or dismiss pupils when the best interests of the schools make it necessary. Stanley v. Gary (S.C. 1960) 237 S.C. 237, 116 S.E.2d 843.

5.6. Attendance criteria

The mere payment of tuition is not sufficient to deem a nonresident child eligible to enroll in a particular school in another district; instead, the payment of tuition is a secondary requirement that may be imposed after a nonresident child, who is statutorily eligible to attend the public schools of another school district, is granted admission to a particular school. Storm M.H. ex rel. McSwain v. Charleston County Bd. of Trustees (S.C. 2012) 400 S.C. 478, 735 S.E.2d 492. Education 661(1); Education 683

The General Assembly conferred discretionary authority on a board of trustees to set attendance criteria for particular schools and to determine which school in its district a student may attend. Storm M.H. ex rel. McSwain v. Charleston County Bd. of Trustees (S.C. 2012) 400 S.C. 478, 735 S.E.2d 492. Education 672

Student who did not reside in school district was permitted to attend magnet school in district after meeting eligibility requirements due to her ownership of property in the district with a tax‑assessed value of $300 or more; residency in the district was not required. Storm M.H. ex rel. McSwain v. Charleston County Bd. of Trustees (S.C. 2012) 400 S.C. 478, 735 S.E.2d 492. Education 659

6. Buildings

A school district board did not abuse its discretion by choosing to enter into a lease‑purchase agreement to acquire a new school building rather than using a bonded indebtedness method. Redmond v. Lexington County School Dist. No. Four (S.C. 1994) 314 S.C. 431, 445 S.E.2d 441. Education 119

The right and duty to select school sites is vested in the sound discretion of local school authorities and courts will not restrain or otherwise interfere with the selection unless it appears local authorities have violated some provision of law or have manifestly abused their discretion. Redmond v. Lexington County School Dist. No. Four (S.C. 1994) 314 S.C. 431, 445 S.E.2d 441.

A county school board of trustees properly exercised its discretion under Section 59‑19‑90 when it closed one high school and transferred an elementary school to the vacated buildings where the elementary school building needed extensive repairs for which the board did not have the funds, $333,000 was saved by closing the high school, the high school students would benefit from the enlarged curricula offered at the larger high schools, and although some students had farther to travel, other students would have less to travel. Gamble v. Williamsburg County School Dist. (S.C. 1991) 305 S.C. 288, 408 S.E.2d 217.

As to location of schoolhouses, see Sligh v. Bowers (S.C. 1902) 62 S.C. 409, 40 S.E. 885.

7. Use of school property

Lease of school athletic field. School trustees had no power under subd. (5) of this section [Code 1962 Section 21‑230] to lease or permit the use of a school athletic field for the playing of professional or semiprofessional baseball during the school term. Carter v. Lake City Baseball Club (S.C. 1950) 218 S.C. 255, 62 S.E.2d 470.

8. Charging fees

General school laws were held not to repeal a special act authorizing the trustees of a graded school to charge a matriculation fee, in view of this section [Code 1962 Section 21‑230]. Felder v. Johnston (S.C. 1924) 127 S.C. 215, 121 S.E. 54. Education 682

Trustees formerly had no authority to charge incidental fees. Young v. Trustees of Fountain Inn Graded School (S.C. 1902) 64 S.C. 131, 41 S.E. 824.

9. Review of decisions by Federal courts

A Federal court should not interpose and substitute its judgment and authority for that of the local and State school authorities unless and until such actions are clearly warranted to safeguard and protect rights guaranteed by the Constitution. Bradford v. School Dist. No. 20, Charleston, S. C. (C.A.4 (S.C.) 1966) 364 F.2d 185.

Disputed and nondisputed facts relating to alleged violations of regulations. If facts relating to an alleged violation of school regulations are in dispute, and an arbitrary decision on those facts projects injury, the Fourteenth Amendment protects the victim. But where facts are undisputed, the whole question resolving to what policy the school board should be allowed to project, unless the student is definitely harmed, or his constitutional rights clearly denied, no formal hearing is required. Rumler v. Board of School Trustees for Lexington County Dist. No. One Schools (D.C.S.C. 1971) 327 F.Supp. 729.

In testing the decision of a school board not to renew contract of a teacher, the district court must consider only the facts and logic relied upon by the board itself. Williams v. Sumter School Dist. No. 2 (D.C.S.C. 1966) 255 F.Supp. 397. Education 619; Public Employment 421

**SECTION 59‑19‑93.** Adoption of procurement code by school district; suspension of distribution of funds for noncompliance.

 Distributions of funds to a school district pursuant to the South Carolina Education Improvement Act of 1984 must be suspended after June 30, 1985, unless the school district has adopted and filed with the Division of General Services of the State Department of Administration a procurement code modeled on the South Carolina Consolidated Procurement Code or the model set forth in the Report of the Local Government Task Force on Procurement. All suspended funds must be released to the district at the time the district files an adopted procurement code and all subsequent distributions must be made as provided by law.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division V, Section 6.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

LIBRARY REFERENCES

Schools 80.

Westlaw Key Number Search: 345k80.

C.J.S. Schools and School Districts Section 435.

**SECTION 59‑19‑95.** Implementation of student promotion policy.

 The governing body of every school district of this State shall implement a student promotion policy which at least meets the minimum criteria established by the State Board of Education under Section 59‑5‑65 of the 1976 Code.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision B, SubPart 2.

LIBRARY REFERENCES

Schools 163.

Westlaw Key Number Search: 345k163.

C.J.S. Schools and School Districts Section 780.

**SECTION 59‑19‑97.** Teacher’s evaluation system for continuing contract teachers.

 The teacher’s evaluation system for continuing contract teachers, mandated by Act 187 of 1979, must be fully implemented in all school districts by school year 1984‑85. A formal evaluation of continuing contract teachers must take place not less than every three years. Nothing in this section shall prohibit the governing bodies of the school districts of this State from establishing higher standards for the evaluation of teachers.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, SubPart 4, Section 4.

CROSS REFERENCES

Act 187 of 1979 referred to in this section has been codified as Sections 59‑26‑10 et seq.

LIBRARY REFERENCES

Schools 133.6(1).

Westlaw Key Number Search: 345k133.6(1).

C.J.S. Schools and School Districts Sections 222 to 223, 226 to 228, 236 to 238.

**SECTION 59‑19‑100.** Circumstances under which educational governing body of county shall have powers and duties of school trustees.

 Where the county educational system operates as a unit, the county board of education or the educational governing body of the county shall have all the powers and duties of school trustees.

HISTORY: 1962 Code Section 21‑230.1; 1955 (49) 83.

LIBRARY REFERENCES

Schools 55.

Westlaw Key Number Search: 345k55.

C.J.S. Schools and School Districts Sections 15 to 17, 142 to 145, 147, 206, 254, 356, 401.

Attorney General’s Opinions

Authority to institute proceedings under Compulsory Attendance Law. The county board of education has sole authority to institute proceedings under the Compulsory Attendance Law. The board has the authority to designate another entity or person to exercise such powers. 1968‑69 Op Atty Gen, No 2774, p 264.

**SECTION 59‑19‑110.** Rule‑making power.

 The boards of trustees of the several school districts may prescribe such rules and regulations not inconsistent with the statute law of this State as they may deem necessary or advisable to the proper disposition of matters brought before them. This rule‑making power shall specifically include the right, at the discretion of the board, to designate one or more of its members to conduct any hearing in connection with any responsibility of the board and to make a report on this hearing to the board for its determination.

HISTORY: 1962 Code Section 21‑230.2; 1956 (49) 1670.

LIBRARY REFERENCES

Schools 56.

Westlaw Key Number Search: 345k56.

C.J.S. Schools and School Districts Section 146.

Attorney General’s Opinions

Discussion of the authority of the Trustees of the Charleston County School District with respect to the various constituent school districts of Charleston County and issues relating to magnet schools, school bus transportation, and student discipline. S.C. Op.Atty.Gen. (April 12, 2016) 2016 WL 1711847.

NOTES OF DECISIONS

In general 1

1. In general

County school district’s additional requirement that employees work through school year to be eligible for its retirement incentive plan was neither inconsistent nor irreconcilable with statutory proviso giving public employers option of adopting one‑time retirement incentive bonus; district’s additional requirement merely imposed additional regulation in area in which proviso was silent. Wright v. Richland County School Dist. Two (S.C. 1997) 326 S.C. 271, 486 S.E.2d 740. Education 417; Education 430; Public Employment 384; Public Employment 385

Teacher was not entitled to expungement from his record of a 2 day suspension imposed during the 1983‑84 school term by a county school district because of the expiration of his teachers certificate, nor to recover for 2 days lost pay, even though the state Department of Education, after the expiration of the 1983‑84 school term, had recertified him retroactively to July 1, 1983. Singleton v. Horry County School Dist. (S.C.App. 1986) 289 S.C. 223, 345 S.E.2d 751.

School director whose conduct manifests evident unfitness for teaching is subject to immediate removal, after being given prior notice and opportunity for hearing, notwithstanding school board policy, following lead of Section 59‑25‑440, calling for written notice of reason that may lead to dismissal or nonrenewal and opportunity to correct problem; school director who, among other things, (1) reprimands teachers in presence of other teachers and students, referring to them as “stupid,” (2) hides employee’s keys knowing employee is looking for them, (3) foolishly and irresponsibly obstructs provision of emergency medical service for pregnant student suffering miscarriage and when told child has miscarried into commode reacts with callous expression of “that’s one more we won’t have to pay for,” and (5) addresses teachers with intemperate language on other occasions, resulting in school environment filled with turmoil, tension, conflict, and absence of trust and respect for director has manifested evidence unfitness for teaching. Kizer v. Dorchester County Vocational Educ. Bd. of Trustees (S.C. 1986) 287 S.C. 545, 340 S.E.2d 144.

**SECTION 59‑19‑117.** Criminal record search for individuals hired by district; adoption of written policy; training; National Sex Offender Registry check on certain district employees; training; adoption of written policy.

 (A) An individual hired by a local school district board of trustees to serve in any capacity in a public school in this State shall undergo a name‑based South Carolina criminal record search conducted by the local school district using records maintained by the State Law Enforcement Division pursuant to regulations contained in subarticle 1, Article 3, Chapter 73 of the Code of Regulations. By August 1, 2010, a school district board of trustees shall adopt a written policy that specifies the required criminal record search as well as how the information received from the search impacts hiring decisions. The district policy must stipulate whether the district assumes the cost of the criminal record search or that the applicant assumes the cost. The policy must include, at a minimum, a prohibition of hiring individuals convicted of violent crimes as defined in Section 16‑1‑60 and hiring recommendations relative to felony convictions and relevant just‑cause examples provided in Section 59‑25‑160. The South Carolina Law Enforcement Division, working with the Department of Education, shall provide training to appropriate school district personnel regarding appropriate use of the information provided in criminal record searches.

 (B) Each school district of this State shall perform a National Sex Offender Registry check on all district employees hired to serve in any capacity in a public school and all volunteers who work in a school on an interim or regular basis as mentors, coaches, or any other capacity, or volunteers who serve as student chaperones or any other capacity having direct interaction with students. The South Carolina Law Enforcement Division, working with the Department of Education, shall provide training to appropriate district personnel on the appropriate uses of the database. By August 1, 2010, the district board of trustees shall adopt a written policy that specifies the sex offender registry check as well as how information received from the search impacts hiring decisions. The policy must include, at a minimum, a prohibition of hiring individuals required to register as sex offenders pursuant to Section 23‑3‑430.

HISTORY: 2010 Act No. 168, Section 1, eff May 11, 2010.

CROSS REFERENCES

Computerized criminal history, see S.C. Code of Regulations R. 73‑20 et seq.

**SECTION 59‑19‑120.** Rules and regulations governing use of school buildings.

 Each district board of trustees may adopt rules and regulations which are not inconsistent with State law or the rules and regulations of the State Board of Education governing the use of school buildings for purposes other than normal school activity.

HISTORY: 1962 Code Section 21‑230.3; 1974 (58) 1927.

LIBRARY REFERENCES

Schools 72.

Westlaw Key Number Search: 345k72.

C.J.S. Schools and School Districts Sections 375, 387 to 389, 396.

Attorney General’s Opinions

School district trustees do not possess authority to provide private piano teachers an area with a piano within the district schools in order to teach students piano for individual lesson fees. 1978 Op Atty Gen, No 78‑189, p 214.

There appears to be no State statutes or other specific authority dealing with the sale or lease of advertising space on publicly owned county or municipal property, such as school property, to the private sector. However, once the use of public property is made available, First Amendment constitutional guarantees may be applicable. 1992 Op Atty Gen No 92‑69.

**SECTION 59‑19‑125.** Leasing school property for particular purposes.

 Each district board of trustees may lease any school property for a rental which the board considers reasonable or permit the free use of school property for:

 (1) civic or public purposes; or

 (2) the operation of a school‑age child care program for children aged five through fourteen years that operates before or after the school day, or both, and during periods when school is not in session, if the property is not needed for school purposes. Under this section the board may enter into a long‑term lease with a corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school‑age child care program. However, if the property subject to a long‑term lease is being paid for from money in the district’s debt service fund, then all proceeds from the long‑term lease must be deposited in that school district’s debt service fund so long as the property has not been paid for.

HISTORY: 1989 Act No. 189, Part II, Section 43 Sub 7; 1992 Act No. 315, Section 1.

LIBRARY REFERENCES

Schools 74.

Westlaw Key Number Search: 345k74.

C.J.S. Schools and School Districts Sections 376 to 377, 391, 396 to 398.

Attorney General’s Opinions

Whether consent of County Council is required in school district’s lease‑purchase arrangement would depend upon facts of transaction and whether Section 59‑19‑125 or Section 59‑19‑250 was followed. 1993 Op Atty Gen No. 93‑61.

NOTES OF DECISIONS

In general 1

1. In general

A lease‑purchase agreement contemplated by a school district through its Board of Trustees was not within the scope of Section 59‑19‑250, and thus did not require prior approval from the county council, where the legislature later enacted Section 59‑19‑125, which permits the board to lease school property for a reasonable rental, and lease‑purchase transactions were a prevailing method of acquiring school facilities at the time Section 59‑19‑125 was enacted. Whiteside v. Cherokee County School Dist. No. One (S.C. 1993) 311 S.C. 335, 428 S.E.2d 886, rehearing denied.

**SECTION 59‑19‑130.** Acquisition of supplies and equipment.

 Each district board of trustees shall have the power to purchase, rent, lease, or otherwise acquire the supplies and equipment necessary for the operation of the public schools and other school facilities of the district.

HISTORY: 1962 Code Section 21‑230.4; 1974 (58) 1927.

LIBRARY REFERENCES

Schools 75.

Westlaw Key Number Search: 345k75.

C.J.S. Schools and School Districts Sections 393 to 394.

**SECTION 59‑19‑140.** Rules and regulations governing use of equipment.

 Each district board of trustees may adopt rules and regulations which are not inconsistent with State law or the rules and regulations of the State Board of Education governing the use of school equipment for purposes other than normal school activity.

HISTORY: 1962 Code Section 21‑230.5; 1974 (58) 1927.

LIBRARY REFERENCES

Schools 75.

Westlaw Key Number Search: 345k75.

C.J.S. Schools and School Districts Sections 393 to 394.

**SECTION 59‑19‑150.** Maintenance of equipment.

 Each district board of trustees shall keep its equipment in good repair.

HISTORY: 1962 Code Section 21‑230.6; 1974 (58) 1927.

**SECTION 59‑19‑160.** Gifts to school district; bond as prerequisite to receipt.

 The trustees of any school district of this State may take and hold in trust for their particular school district any property granted, devised, given or bequeathed to such school district and apply the same in the interest of the schools of their district in such manner as in their judgment seems most conducive to the welfare of the schools when not otherwise directed by the terms of the grant, devise, gift or bequest. Before such trustees shall assume control of any grant, devise, gift or bequest, they shall give a bond, to be approved by the county board of education of the county in which such grant, devise, gift or bequest is made, conditioned for the faithful discharge of the trust reposed in them in respect to such property, which bond shall be deposited with the clerk of the court of the county.

HISTORY: 1962 Code Section 21‑231; 1952 Code Section 21‑231; 1942 Code Section 5392; 1932 Code Section 5278; Civ. C. ‘22 Section 2538; Civ. C. ‘12 Section 1702; Civ. C. ‘02 Section 1178; 1896 (21) 150; 1917 (30) 384; 1942 (42) 1444.

LIBRARY REFERENCES

Schools 65.

Westlaw Key Number Search: 345k65.

C.J.S. Schools and School Districts Sections 357 to 365, 369 to 372, 378 to 380, 386, 391 to 392.

**SECTION 59‑19‑170.** Acceptance and holding of property by trustees.

 The district board of trustees of any school district may accept and hold in trust for its particular school district any property granted, devised, given or bequeathed to the district and use it in such manner as in its judgment seems most conducive to the welfare of the schools when not otherwise directed by the terms of the grant, devise, gift or bequest.

HISTORY: 1962 Code Section 21‑231.1; 1974 (58) 1937.

LIBRARY REFERENCES

Schools 65.

Westlaw Key Number Search: 345k65.

C.J.S. Schools and School Districts Sections 357 to 365, 369 to 372, 378 to 380, 386, 391 to 392.

**SECTION 59‑19‑180.** Purchase of lands by trustees.

 Whenever a board of school trustees deems it expedient to acquire lands for the erection thereon of any public schoolhouse or building or making any addition to or extension of any public schoolhouse or building already established or for public school playgrounds or other use for such public schools, it may purchase the lots or parcels of land necessary for such purposes and the fee simple title of such land shall be vested in such board of school trustees from the day of the sale.

HISTORY: 1962 Code Section 21‑232; 1952 Code Section 21‑232; 1942 Code Section 5360; 1932 Code Section 5385; Civ. C. ‘22 Section 4751; 1920 (31) 782; 1924 (33) 1130; 1930 (36) 1108.

LIBRARY REFERENCES

Schools 65.

Westlaw Key Number Search: 345k65.

C.J.S. Schools and School Districts Sections 357 to 365, 369 to 372, 378 to 380, 386, 391 to 392.

Attorney General’s Opinions

State law does not presently authorize acquisition of school buildings on a lease‑purchase basis and in the absence of specific statutory authorization and approval by the State Department of Education, funds may not be made available to make payments upon any such lease under the terms of the annual pupil grants. 1970‑71 Op Atty Gen, No 3186, p 158.

Board must take fee simple absolute title. A board of trustees that acquires by purchase land to be used for public school purposes must take fee simple absolute title. 1968‑69 Op Atty Gen, No 2655, p 71.

NOTES OF DECISIONS

In general 1

1. In general

Despite statutory provision that fee simple title of land should be vested in a school from the day of a sale, nothing in the language of the statute suggests that the conveyance of a lesser fee in real estate to a school board vests title in fee simple absolute, disregarding the clearly expressed intent of the grantor. Beach Co. v. Charleston County School Dist. (S.C. 1974) 263 S.C. 7, 207 S.E.2d 406.

The furthest possible reach of this section [Code 1962 Section 21‑232] is to limit the authority of school boards in the purchase of land to the acquisition of fee simple estates only. Beach Co. v. Charleston County School Dist. (S.C. 1974) 263 S.C. 7, 207 S.E.2d 406.

The conveyance of a base fee in real estate to a school board does not vest title in fee simple absolute regardless of the clearly expressed intent of the grantor. Beach Co. v. Charleston County School Dist. (S.C. 1974) 263 S.C. 7, 207 S.E.2d 406.

**SECTION 59‑19‑190.** Purchase of land by trustees; reassignment or disposal of land purchased with State funds.

 Whenever a board of trustees deems it expedient to acquire lands for public school purposes with any State funds, it may purchase, subject to the prior written approval of the State Board of Education, the lots or parcels of land necessary for such purchase. The reassignment or disposal of such parcels of land purchased after 1952 with any State funds shall be subject to the prior written approval of the State Board of Education.

HISTORY: 1962 Code Section 21‑232.1; 1973 (58) 635.

LIBRARY REFERENCES

Schools 65.

Westlaw Key Number Search: 345k65.

C.J.S. Schools and School Districts Sections 357 to 365, 369 to 372, 378 to 380, 386, 391 to 392.

**SECTION 59‑19‑200.** Condemnation of lands by trustees.

 In case any owner of any lot or parcel of land refuses to sell it or demands what may be considered by the authorities an unreasonable price, the authorities may proceed to condemn the land pursuant to the Eminent Domain Procedure Act (Chapter 2 of Title 28).

HISTORY: 1962 Code Section 21‑233; 1952 Code Section 21‑233; 1942 Code Section 5361; 1932 Code Section 5386; 1930 (36) 1108; 1987 Act No. 173 Section 51.

CROSS REFERENCES

Eminent domain, generally, see Sections 28‑2‑10 et seq.

LIBRARY REFERENCES

Eminent Domain 40.

Westlaw Key Number Search: 148k40.

C.J.S. Eminent Domain Section 51.

**SECTION 59‑19‑250.** Sale or lease of school property by trustees.

 The school trustees of the several school districts may sell or lease school property, real or personal, in their school district whenever they deem it expedient to do so and apply the proceeds of any such sale or lease to the school fund of the district. The consent of the county board of education or, in those counties which do not have a county board of education, the governing body of the county, shall be first obtained by the trustees desiring to make any such sale or lease. The board of trustees, within thirty days after making any such sale or lease, shall send a report thereof to the county board of education or, in those counties which do not have a county board of education, the governing body of the county, setting forth the terms and amount of the sale or lease.

HISTORY: 1962 Code Section 21‑238; 1952 Code Section 21‑238; 1942 Code Section 5345; 1932 Code Section 5371; Civ. C. ‘22 Section 2618; Civ. C. ‘12 Section 1755; Civ. C. ‘02 Section 1213; 1896 (21) 165; 1955 (49) 87; 1972 (57) 2126; 1973 (58) 397.

CROSS REFERENCES

Conveyance of title to school building not necessary for school purposes, see Section 59‑23‑310.

LIBRARY REFERENCES

Schools 65, 74.

Westlaw Key Number Searches: 345k65; 345k74.

C.J.S. Schools and School Districts Sections 357 to 365, 369 to 372, 376 to 380, 386, 391 to 392, 396 to 398.

Attorney General’s Opinions

School trustees must obtain the consent and approval of the county board of education or the governing body of the county, if there is no county board of education, before making a sale of public school property. State law does not prescribe the specific manner of such sale of property. 1979 Op Atty Gen, No 79‑51, p 67.

Section 21‑238 [1976 Code Section 59‑19‑250] does not require that a school board receive fair market value in the sale of real property if the Trustees consider that the transaction is in the District’s interest. 1976‑77 Op Atty Gen, No 77‑75, p 69.

Marion School District No. 1 does not have the statutory authority to donate public land and according to Code 1962 Section 21‑238 [Code 1976 Section 59‑19‑250] it may only sell or lease land. 1974‑75 Op Atty Gen, No 4044, p 120.

Where funds from rental of school property to be deposited. School funds accruing to a school district from rental of school property should be deposited with and accounted for by the county treasurer. 1971‑72 Op Atty Gen, No 3396, p 260.

Conveyance of real estate not having buildings thereon. A county school district may convey real estate not having buildings thereon, pursuant to the authority set forth in this section [Code 1962 Section 21‑238] and public bidding is not required for such sale. 1969‑70 Op Atty Gen, No 2864, p 101.

Whether consent of County Council is required in school district’s lease‑purchase arrangement would depend upon facts of transaction and whether Section 59‑19‑125 or Section 59‑19‑250 was followed. 1993 Op Atty Gen No. 93‑61.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Long v Dunlap (1910) 87 SC 8, 68 SE 801. Moseley v Welch (1946) 209 SC 19, 39 SE2d 133. Nesbitt v Gettys (1951) 219 SC 221, 64 SE2d 651.

A lease‑purchase agreement contemplated by a school district through its Board of Trustees was not within the scope of Section 59‑19‑250, and thus did not require prior approval from the county council, where the legislature later enacted Section 59‑19‑125, which permits the board to lease school property for a reasonable rental, and lease‑purchase transactions were a prevailing method of acquiring school facilities at the time Section 59‑19‑125 was enacted. Whiteside v. Cherokee County School Dist. No. One (S.C. 1993) 311 S.C. 335, 428 S.E.2d 886, rehearing denied.

Agreement to reconvey property on occurrence of the condition that it not be used for school purposes within 10 years from conveyance was not a sale of school property within regulatory statute, but was part and parcel of the fee simple acquisition of the property, with which this statute is not concerned. Beach Co. v. Charleston County School Dist. (S.C. 1974) 263 S.C. 7, 207 S.E.2d 406.

This section [Code 1962 Section 21‑238] contemplates approval by the county board when the sale of school property is a matter of judgment and discretion and does not apply where the deed and reconveyance agreement were the two instruments by which the parties consummated the sale on the terms agreed upon. Beach Co. v. Charleston County School Dist. (S.C. 1974) 263 S.C. 7, 207 S.E.2d 406.

The execution of a conditional reconveyance agreement is not a sale of school property within the meaning of this section [Code 1962 Section 21‑238] where it was part and parcel of the acquisition of the property. Beach Co. v. Charleston County School Dist. (S.C. 1974) 263 S.C. 7, 207 S.E.2d 406.

Applied in Clemson Associates, Inc. v. Robinson (S.C. 1972) 259 S.C. 105, 190 S.E.2d 738.

Whatever power the Chester County school board of trustees may have had prior to the passage of Code 1962 Sections 21‑331 to 21‑336, with regard to disposal of abandoned school buildings, was derived from this section [Code 1962 Section 21‑238], and thus limited to sales for monetary consideration. Abell v. Bell (S.C. 1956) 229 S.C. 1, 91 S.E.2d 548.

**SECTION 59‑19‑260.** Trustees authorized to insure motor vehicles.

 The board of trustees of any school district is hereby authorized to secure such insurance as it deems necessary relating to the operation of motor vehicles owned by the district.

HISTORY: 1962 Code Section 21‑238.1; 1959 (51) 362.

CROSS REFERENCES

Regulation of automobile insurance, generally, see Sections 38‑77‑10 et seq.

Attorney General’s Opinions

Liability insurance may not be purchased by Sumter Area Technical Education Commission in absence of statute. 1967‑68 Op Atty Gen, No 2583, p 287.

**SECTION 59‑19‑270.** Trustees may employ medical, technical and clerical personnel.

 Every district board of trustees may employ physicians, dentists, podiatrists, ophthalmologists, other medical specialists, optometrists, nurses, dental hygienists, and other technical and clerical personnel as may be needed.

HISTORY: 1962 Code Section 21‑238.2; 1973 (58) 267.

LIBRARY REFERENCES

Schools 157.

Westlaw Key Number Search: 345k157.

C.J.S. Schools and School Districts Sections 722 to 723, 725.

**SECTION 59‑19‑280.** Trustees may be members of School Boards Association.

 Any member of the board of trustees of any school district in this State may become a member of the South Carolina School Boards Association, and the fees and dues necessary to acquire and maintain membership in this organization shall be paid by the school district.

HISTORY: 1962 Code Section 21‑238.3; 1974 (58) 1926.

LIBRARY REFERENCES

Schools 54.

Westlaw Key Number Search: 345k54.

C.J.S. Schools and School Districts Section 140.

**SECTION 59‑19‑290.** Contracts in excess of apportioned funds shall be void.

 All contracts which boards of trustees may make in excess of the funds apportioned to their districts shall be void.

HISTORY: 1962 Code Section 21‑239; 1952 Code Section 21‑239; 1942 Code Section 5374; 1932 Code Section 5401; Civ. C. ‘22 Section 2645; Civ. C. ‘12 Section 1777; Civ. C. ‘02 Section 1228; 1900 (21) 366; 1929 (36) 100.

CROSS REFERENCES

General powers and duties of school trustees, see Section 59‑19‑90.

LIBRARY REFERENCES

Schools 82(1).

Westlaw Key Number Search: 345k82(1).

C.J.S. Schools and School Districts Sections 434 to 436.

**SECTION 59‑19‑300.** Propriety of trustee’s receiving pay as teacher.

 It shall be unlawful for a school trustee to receive pay as a teacher of a free public school that is located in the same school district of which such person is a trustee.

HISTORY: 1962 Code Section 21‑240; 1952 Code Section 21‑240; 1942 Code Section 5357; 1932 Code Section 5383; Civ. C. ‘22 Section 2629; Civ. C. ‘12 Section 1760; Civ. C. ‘02 Section 1217; 1896 (21) 165; 1973 (58) 214; 1977 Act No. 66, Section 1.

CROSS REFERENCES

Compensation of trustees, see Section 59‑1‑350.

LIBRARY REFERENCES

Schools 53(2).

Westlaw Key Number Search: 345k53(2).

C.J.S. Schools and School Districts Sections 112, 114.

Attorney General’s Opinions

Discussion of whether there is a conflict of interest if a person is both a school board trustee and a temporary employee of the district. S.C. Op.Atty.Gen. (August 13, 2014) 2014 WL 4253410.

**SECTION 59‑19‑310.** Exercising office of trustee after termination of office.

 If a trustee of any school district shall attempt to act or discharge the duties of such office after he has been removed or after his successor shall have qualified, he shall be guilty of a misdemeanor and, after conviction, be punished by a fine of not less than one hundred and one dollars or by imprisonment for not less than thirty days, or both, at the discretion of the court.

HISTORY: 1962 Code Section 21‑241; 1952 Code Section 21‑241; 1942 Code Section 1568; 1932 Code Section 1568; Cr. C. ‘22 Section 516; Cr. C. ‘12 Section 585; Cr. C. ‘02 Section 428; G.S. 1024; R.S. 341; 1878 (16) 584.

LIBRARY REFERENCES

Schools 53(4).

Westlaw Key Number Search: 345k53(4).

C.J.S. Schools and School Districts Sections 116, 138 to 139.

**SECTION 59‑19‑315.** Commencement of trustee’s term of office.

 The term of office of every elected trustee of a school district must commence one week following the certification of his election.

HISTORY: 1985 Act No. 65, Section 1.

LIBRARY REFERENCES

Schools 53(4).

Westlaw Key Number Search: 345k53(4).

C.J.S. Schools and School Districts Sections 116, 138 to 139.

Attorney General’s Opinions

Section 59‑19‑315 appears to be controlling as to commencement of terms of Greenville County School District trustees; this statute should have effect of shortening terms of existing trustees in Greenville County. 1985 Op Atty Gen, No. 85‑68, p 191.

**SECTION 59‑19‑320.** Trustees may cross bridge or ferry free of charge.

 The school trustees shall be allowed to cross all bridges or ferries free of charge when they are traveling on official business.

HISTORY: 1962 Code Section 21‑242; 1952 Code Section 21‑242; 1942 Code Section 5358; 1932 Code Sections 5384, 5596; Civ. C. ‘22 Sections 2616, 2630; Civ. C. ‘12 Sections 1753, 1761; Civ. C. ‘02 Sections 1211, 1218; Cr. C. ‘22 Section 452; 1896 (21) 165; 1920 (31) 1046; 1923 (33) 180; 1937 (40) 75.

LIBRARY REFERENCES

Bridges 33.

Ferries 31.

Westlaw Key Number Searches: 64k33; 172k31.

C.J.S. Bridges Sections 65 to 69.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 34, Exempt Persons Shall Pass Free.

**SECTION 59‑19‑330.** Annual report of trustees of certain special and graded school districts.

 The trustees of special and graded school districts created by acts of the General Assembly shall make annual reports to the State Superintendent of Education in such form and at such time as he shall prescribe.

HISTORY: 1962 Code Section 21‑243; 1952 Code Section 21‑243; 1942 Code Section 5391; 1932 Code Section 5419; Civ. C. ‘22 Section 2682; Civ. C. ‘12 Section 1792; Civ. C. ‘02 Section 1238; 1896 (22) 150; 1897 (22) 514.

**SECTION 59‑19‑340.** Child development programs for three and four‑year‑old children.

 The board of trustees of each school district may establish and provide for the education of children who will attain the age of four on or before September first of the applicable school year in child development programs. The board of trustees of school districts having programs serving three and four‑year‑olds on the date of enactment of this section may continue to serve three‑year‑old children.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision A, SubPart 3, Section 2(E); 1993 Act No. 135, Section 8; 1993 Act No. 164, Part II, Section 29A.

CROSS REFERENCES

Half‑day program for four‑year‑olds must be maintained at least at 1993‑94 level, see Section 59‑139‑70.

LIBRARY REFERENCES

Schools 164.

Westlaw Key Number Search: 345k164.

C.J.S. Schools and School Districts Sections 701, 782 to 785, 817.

**SECTION 59‑19‑350.** Schools of choice exempt from state laws and regulations.

 (A) A local school district board of trustees of this State desirous of creating an avenue for new, innovative, and more flexible ways of educating children within their district, may create a school of choice within the district that is exempt from state statutes which govern other schools in the district and regulations promulgated by the State Board of Education. To achieve the status of exemption from specific statutes and regulations, the local board of trustees, at a public meeting, shall identify specific statutes and regulations which will be considered for exemption. The exemption may be granted by the governing board of the district only if there is a two‑thirds affirmative vote of the board for each exemption and the proposed exemption is approved by the State Board of Education.

 (B) In seeking exemptions, the local board of trustees may not exempt:

 (1) federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry, or need for special education services;

 (2) health, safety, civil rights, and disability rights requirements as are applied to other public schools operating in the district;

 (3) minimum student attendance requirements;

 (4) state assessment requirements; and

 (5) certification requirements for teachers in the core academic areas as defined by the federal No Child Left Behind Act, Public Law 107‑110; however, up to twenty‑five percent of the teaching staff of the school may be employed if the individual possesses a baccalaureate or graduate degree in the subject he is hired to teach.

 (C) Any school created pursuant to this section shall admit all children eligible to attend the school subject to space limitations and may not limit or deny admission or show preference in admission decisions to any individual or group of individuals.

 (D) A local school district that provides exemptions pursuant to subsection (A) shall provide the State Department of Education with documentation of the approved exemptions and shall submit evaluation documentation to be reviewed by the State Board of Education after three years of the exemption to ensure that the district continues to meet the needs of its students. Upon review, if the State Board of Education determines the continuation of the exemption does not meet the needs of the students attending the district school of choice, the board may suspend exemptions granted by the local board of trustees with a two‑thirds vote. Before suspending the exemptions, the State Board of Education shall notify the district and provide the district with any opportunity to defend the continuation of approved exemptions.

HISTORY: 2012 Act No. 164, Section 17, eff May 14, 2012.

Attorney General’s Opinions

A local school district board of trustees may create one school of choice within its district. 2015 S.C. Op.Atty.Gen. (July 9, 2015) 2015 WL 4497736.

ARTICLE 3

Appeal From Action of Trustees

**SECTION 59‑19‑510.** Right to appeal to county board of education; petition.

 Subject to the provisions of Section 59‑19‑90, any parent or person standing in loco parentis to any child of school age, the representative of any school or any person aggrieved by any decision of the board of trustees of any school district in any matter of local controversy in reference to the construction or administration of the school laws or the placement of any pupil in any school within the district, shall have the right to appeal the matter in controversy to the county board of education by serving a written petition upon the chairman of the board of trustees, the chairman of the county board of education and the adverse party within ten days from the date upon which a copy of the order or directive of the board of trustees was delivered to him by mail or otherwise. The petition shall be verified and shall include a statement of the facts and issues involved in the matter in controversy.

HISTORY: 1962 Code Section 21‑247; 1952 Code Section 21‑103; 1942 Code Section 5317; 1932 Code Section 5348; Civ. C. ‘22 Section 2597; Civ. C. ‘12 Section 1736; Civ. C. ‘02 Section 1203; 1896 (22) 161; 1956 (49) 1655.

CROSS REFERENCES

Inapplicability of article to teachers employed for one year provisional contract period, see Section 59‑26‑40.

Power of county board of education to designate one or more of its members to conduct a hearing, see Section 59‑15‑40.

Remedy of teacher for discrimination in fixing salary, see Sections 59‑25‑710 et seq.

LIBRARY REFERENCES

Schools 61.

Westlaw Key Number Search: 345k61.

C.J.S. Schools and School Districts Sections 157 to 162.

Attorney General’s Opinions

The selection of school colors and a school mascot is a “matter of local controversy” under Code 1962 Section 21‑247 [Code 1976 Section 59‑19‑510]; therefore, a decision of the Board of Trustees of a school district concerning these matters is appealable to the County Board of Education; the ten (10) day period for appealing a Board’s decision does not begin to run until the parties have been served with a copy of the Board’s Order or Directive. 1974‑75 Op Atty Gen, No 3979, p 52.

A school superintendent is not a “teacher” within 1962 Code Section 21‑361 [1976 Code Section 59‑25‑410]. The decision to suspend a superintendent may be appealed to the County Board of Education, pursuant to 1962 Code Section 21‑247 [1976 Code Section 59‑19‑510]. 1975‑76 Op Atty Gen, No 4536, p 400.

Transfer of students from one school to another is a matter subject to review by county board of education. 1969‑70 Op Atty Gen, No 2806, p 14.

NOTES OF DECISIONS

In general 1

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What constitutes a local controversy 2

1. In general

If a teacher whose contract is not renewed complies with the provisions of Code 1962 Section 21‑247 [Code 1976 Section 59‑19‑510], the county board is authorized to hear the matter de novo. Mescia v. Berry (D.C.S.C. 1974) 406 F.Supp. 1181, affirmed 530 F.2d 969.

School teacher alleging school board failed to renew his employment contract for constitutionally impermissible reasons could not rely upon Code 1962 Section 21‑247 [Code 1976 Section 59‑19‑510] as basis for purported property interest requiring that he be afforded procedural due process hearing prior to board’s decision not to renew his contract. Mescia v. Berry (D.C.S.C. 1974) 406 F.Supp. 1181, affirmed 530 F.2d 969.

Code 1962 Section 21‑247 [Code 1976 Section 59‑19‑510] does not have as its purpose definition of rights of school teachers or school districts with regard to contractual terms between them; administrative appellate procedure provided by statute is not tantamount to state’s pronouncement that every person who meets broad classification of “any person aggrieved by any decision of the board” has property interest in renewal of his contract sufficient to invoke procedural due process afforded by Fourteenth Amendment. Mescia v. Berry (D.C.S.C. 1974) 406 F.Supp. 1181, affirmed 530 F.2d 969. Constitutional Law 4198

This article is patterned after the North Carolina Pupil Enrollment Act, which was held to be constitutional on its face. Brown v. School Dist. No. 29, Charleston, S.C., 1963, 226 F.Supp. 819, affirmed 328 F.2d 618, certiorari denied 85 S.Ct. 52, 379 U.S. 825, 13 L.Ed.2d 35.

A parent or person in loco parentis has the right of appeal from any action of a board of trustees to the county board of education, and from there to the circuit court where the matter will be heard de novo by the circuit judge. This administrative procedure is afforded under this section [Code 1962 Section 21‑247] and Code 1962 Sections 21‑230, 21‑247.2 to 21‑247.5. Byrd v. Gary, 1960, 184 F.Supp. 388.

Notwithstanding appellant’s contention that portion of his case regarding discrimination in pay must be appealed to State Board of Education under Section 59‑25‑810, Circuit Court properly exercised jurisdiction under procedures of Sections 59‑19‑510 and 59‑19‑560 where appellant’s allegations of discrimination in pay were closely connected to his action for reinstatement involving construction of school policy. Lexington County School Dist. One Bd. of Trustees v. Mayer (S.C. 1984) 282 S.C. 36, 316 S.E.2d 679.

2. What constitutes a local controversy

A “matter of local controversy” is presented when it is asserted that a duly elected teacher is unfitted to teach, or the employment of such person will result in harm to the school. Stanley v. Gary (S.C. 1960) 237 S.C. 237, 116 S.E.2d 843.

3. Prerequisite to court action

The administrative remedies provided by the laws of South Carolina are adequate to provide school teacher suspended without hearing a complete remedy to redress any wrongs which may have been perpetrated by his school district officials. Bradford v. School Dist. No. 20, Charleston, S. C. (C.A.4 (S.C.) 1966) 364 F.2d 185.

A school board has a duty to the public to consider a teacher’s fitness to remain in a teaching position following his conviction in a municipal court on charges of being drunk, disorderly, and assaulting a police officer, and a Federal court should not interpose and substitute its judgment and authority for that of the local and State authorities unless and until such actions are clearly warranted to safeguard and protect rights guaranteed by the Constitution. Bradford v. School Dist. No. 20, Charleston, S. C. (C.A.4 (S.C.) 1966) 364 F.2d 185.

School children are not entitled to an injunction to prevent discrimination on the ground of race where the administrative remedies prescribed by this article and Code 1962 Section 21‑46 have not been exhausted. Hood v. Board of Trustees of Sumter County School Dist. No. 2, Sumter County, S.C. (C.A.4 (S.C.) 1956) 232 F.2d 626, certiorari denied 77 S.Ct. 95, 352 U.S. 870, 1 L.Ed.2d 76.

It is by no means clear that South Carolina law provides a teacher with an administrative remedy sufficiently adequate to preclude prior resort to Federal court for protection of her constitutional right. Rackley v. School Dist. No. 5, Orangeburg County, S. C. (D.C.S.C. 1966) 258 F.Supp. 676.

Where plaintiff’s cause of action invokes the jurisdiction of the district court to secure and protect constitutional rights allegedly guaranteed to her under the United States Constitution, she should not be denied her day in such court while she undertakes to exhaust inadequate or ineffective state remedies. Rackley v. School Dist. No. 5, Orangeburg County, S. C. (D.C.S.C. 1966) 258 F.Supp. 676.

Where administrative remedies are not part of a voluntary system permitting interracial transfers, but rather operate as a burden to an individual seeking constitutional rights, they need not be exhausted before courts can be looked to for relief. Brunson v. Board of Trustees of School Dist. No. 1 of Clarendon County, S. C., 1965, 244 F.Supp. 859.

Questions of constitutional rights of Negro pupils to attend integrated public schools involve no underlying issue of state law, and may be brought before Federal courts without their having exhausted state administrative remedies. Brunson v. Board of Trustees of School Dist. No. 1 of Clarendon County, S. C., 1965, 244 F.Supp. 859.

Desegregation suit allowed even though the administrative remedies provided by this article had not been exhausted, since plaintiffs would have been denied their requests to transfer even if they had complied with the provisions. Adams v. School Dist. No. 5, Orangeburg County, S. C., 1964, 232 F.Supp. 692.

Administrative procedures need not be exhausted before suing segregated school system. Negro children need not comply with administrative procedures prior to instituting suit in the Federal courts when the school system is operated on a racially segregated basis. Brown v. School Dist. No. 29, Charleston, S.C., 1963, 226 F.Supp. 819, affirmed 328 F.2d 618, certiorari denied 85 S.Ct. 52, 379 U.S. 825, 13 L.Ed.2d 35.

Where pupils had not exhausted the administrative procedure provided under this article for the disposition of local controversies arising under the school law, a Federal court refused to issue a temporary injunction enjoining school officials from expelling the pupils from attendance in a high school. Byrd v. Gary, 1960, 184 F.Supp. 388.

Letter from attorney representing county board of education that advises opposing counsel of his position concerning jurisdiction of board to determine issues raised by petition referred to him by board chairman and that suggests that opposing counsel secure court order to compel action by board does not constitute order of county board of education, nor does board’s failure to act constitute “order”, such that court of common pleas lacked jurisdiction in matter, and petitioner’s remedy is to mandamus county board to act by exercising its judgment or discretion. Andrews v. Dorchester County School Dist. No. 2 (S.C.App. 1987) 292 S.C. 392, 356 S.E.2d 439. Administrative Law And Procedure 701; Education 97

4. Prior to 1956 amendment

For cases dealing with appeals to the State Board of Education under the provisions of 1952 Code Sections 21‑46 and 21‑103, see Greenville College County Board of Education (1906) 75 SC 93, 55 SE 132. Patrick v Maybank (1941) 198 SC 262, 17 SE2d 530. Willow Consol. High School Dist. v Union School Dist. (1950) 216 SC 445, 58 SE2d 729.

This section [Code 1962 Section 21‑247] does not violate SC Const, Art 1, Section 14 (now Art 1, Section 8) pertaining to separation of powers. Willow Consol. High School Dist. v. Union School Dist. No. 46 of Orangeburg County (S.C. 1950) 216 S.C. 445, 58 S.E.2d 729.

Where a county board adopted a resolution removing certain trustees, thereafter appointing others in their stead, and the trustees thus removed denied the right of power of the county board of education to remove them and thereupon brought a suit seeking relief by way of an injunction to restrain the carrying out of the board’s resolution, the court held this a matter of local controversy, for the trial of which the legislature, in the laws governing public schools, has provided an appropriate remedy, with suitable tribunals and methods of procedure. Brown v. County Bd. of Ed. for Williamsburg County (S.C. 1938) 186 S.C. 325, 195 S.E. 642.

The elimination of a school district by consolidation is not a matter of local controversy within this section [Code 1962 Section 21‑247], permitting an appeal to the State Board of Education (now county board of education). School Dist. No. 60 of Williamsburg County v. Montgomery (S.C. 1929) 150 S.C. 391, 148 S.E. 218. Education 54(1)

Action by a school teacher for damages for breach of contract to teach school is not a “matter of local controversy in reference to the construction or administration of the school laws.” Hughes v. School Dist. No. 37 (S.C. 1903) 66 S.C. 259, 44 S.E. 784.

**SECTION 59‑19‑520.** Appeal in counties where functions of trustees and board of education have been combined.

 In counties where the functions of the boards of trustees and those of the county board of education have been combined, the appeal provided in Section 59‑19‑510 shall lie to the county board of education from its original action disposing of the matter in controversy before hearing.

HISTORY: 1962 Code Section 21‑247.1; 1952 Code Section 21‑103; 1942 Code Section 5317; 1932 Code Section 5348; Civ. C. ‘22 Section 2597; Civ. C. ‘12 Section 1736; Civ. C. ‘02 Section 1203; 1896 (22) 161; 1956 (49) 1655.

CROSS REFERENCES

Inapplicability of article to teachers employed for one year provisional contract period, see Section 59‑26‑40.

LIBRARY REFERENCES

Schools 48(7).

Westlaw Key Number Search: 345k48(7).

C.J.S. Schools and School Districts Sections 102, 104.

Attorney General’s Opinions

A county board of education may acquire land for agricultural purposes. 1967‑68 Op Atty Gen, No 2421, p 75.

**SECTION 59‑19‑530.** Hearing; separate hearing for each child in controversies involving children of school age.

 The parties shall be entitled to a prompt and fair hearing by the county board of education, which shall try the matter de novo and in accordance with its rules and regulations. Where individual children of school age are involved in the matter in controversy, the case of each child shall be heard and disposed of separately.

HISTORY: 1962 Code Section 21‑247.2; 1952 Code Section 21‑103; 1942 Code Section 5317; 1932 Code Section 5348; Civ. C. ‘22 Section 2597; Civ. C. ‘12 Section 1736; Civ. C. ‘02 Section 1203; 1896 (22) 161; 1956 (49) 1655.

LIBRARY REFERENCES

Schools 61.

Westlaw Key Number Search: 345k61.

C.J.S. Schools and School Districts Sections 157 to 162.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Byrd v. Gary, 1960, 184 F.Supp. 388.

Applied in Stanley v. Gary (S.C. 1960) 237 S.C. 237, 116 S.E.2d 843.

**SECTION 59‑19‑540.** Hearing; appearance of parties and evidence.

 At any hearing provided for in Section 59‑19‑530, the parties may appear in person or through an attorney licensed to practice in South Carolina and may submit such testimony, under oath, or other evidence as may be pertinent to the matter in controversy.

HISTORY: 1962 Code Section 21‑247.3; 1952 Code Section 21‑103; 1942 Code Section 5317; 1932 Code Section 5348; Civ. C. ‘22 Section 2597; Civ. C. ‘12 Section 1736; Civ. C. ‘02 Section 1203; 1896 (22) 161; 1956 (49) 1655.

CROSS REFERENCES

Inapplicability of article to teachers employed for one year provisional contract period, see Section 59‑26‑40.

LIBRARY REFERENCES

Schools 61.

Westlaw Key Number Search: 345k61.

C.J.S. Schools and School Districts Sections 157 to 162.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Byrd v. Gary, 1960, 184 F.Supp. 388.

Applied in Stanley v. Gary (S.C. 1960) 237 S.C. 237, 116 S.E.2d 843.

**SECTION 59‑19‑550.** Order of board of education; service on parties.

 After the parties have been heard, the county board of education shall issue a written order disposing of the matter in controversy, a copy of which shall be mailed to each of the parties at interest.

HISTORY: 1962 Code Section 21‑247.4; 1952 Code Section 21‑103; 1942 Code Section 5317; 1932 Code Section 5348; Civ. C. ‘22 Section 2597; Civ. C. ‘12 Section 1736; Civ. C. ‘02 Section 1203; 1896 (22) 161; 1956 (49) 1655.

CROSS REFERENCES

Inapplicability of article to teachers employed for one year provisional contract period, see Section 59‑26‑40.

LIBRARY REFERENCES

Schools 61.

Westlaw Key Number Search: 345k61.

C.J.S. Schools and School Districts Sections 157 to 162.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Byrd v. Gary, 1960, 184 F.Supp. 388.

Letter from attorney representing county board of education that advises opposing counsel of his position concerning jurisdiction of board to determine issues raised by petition referred to him by board chairman and that suggests that opposing counsel secure court order to compel action by board does not constitute order of county board of education, nor does board’s failure to act constitute “order”, such that court of common pleas lacked jurisdiction in matter, and petitioner’s remedy is to mandamus county board to act by exercising its judgment or discretion. Andrews v. Dorchester County School Dist. No. 2 (S.C.App. 1987) 292 S.C. 392, 356 S.E.2d 439. Administrative Law And Procedure 701; Education 97

Applied in Stanley v. Gary (S.C. 1960) 237 S.C. 237, 116 S.E.2d 843.

**SECTION 59‑19‑560.** Appeal to court of common pleas.

 Any party aggrieved by the order of the county board of education shall have the right to appeal to the court of common pleas of the county by serving a written verified petition upon the chairman of the county board of education and upon the adverse party within ten days from the date upon which copy of the order of the county board of education was mailed to the petitioner. The parties so served shall have twenty days from the date of service, exclusive of the date of service, within which to make return to the petition or to otherwise plead, and the matter in controversy shall be tried by the circuit judge, de novo, with or without reference to a master or special referee.

 The county board of education shall certify to the court the record of the proceedings upon which its order was based, and the record so certified shall be admitted as evidence and considered by the court, along with such additional evidence as the parties may desire to present. The court shall consider and dispose of the cause as other equity cases are tried and disposed of, and all parties at interest shall have such rights and remedies, including the right of appeal, as are now provided by law in such cases.

HISTORY: 1962 Code Section 21‑247.5; 1952 Code Section 21‑103; 1942 Code Section 5317; 1932 Code Section 5348; Civ. C. ‘22 Section 2597; Civ. C. ‘12 Section 1736; Civ. C. ‘02 Section 1203; 1896 (22) 161; 1956 (49) 1655.

CROSS REFERENCES

Appeal to court of common pleas by trustee of removal by county board of education, see Section 59‑19‑60.

Inapplicability of article to teachers employed for one year provisional contract period, see Section 59‑26‑40.

LIBRARY REFERENCES

Schools 48(7).

Westlaw Key Number Search: 345k48(7).

C.J.S. Schools and School Districts Sections 102, 104.

NOTES OF DECISIONS

In general 1

Scope of review 2

1. In general

Stated in Bradford v. School Dist. No. 20, Charleston, S. C. (C.A.4 (S.C.) 1966) 364 F.2d 185.

Cited in Byrd v. Gary, 1960, 184 F.Supp. 388.

Letter from attorney representing county board of education that advises opposing counsel of his position concerning jurisdiction of board to determine issues raised by petition referred to him by board chairman and that suggests that opposing counsel secure court order to compel action by board does not constitute order of county board of education, nor does board’s failure to act constitute “order”, such that court of common pleas lacked jurisdiction in matter, and petitioner’s remedy is to mandamus county board to act by exercising its judgment or discretion. Andrews v. Dorchester County School Dist. No. 2 (S.C.App. 1987) 292 S.C. 392, 356 S.E.2d 439. Administrative Law And Procedure 701; Education 97

Notwithstanding appellant’s contention that portion of his case regarding discrimination in pay must be appealed to State Board of Education under Section 59‑5‑810, Circuit Court properly exercised jurisdiction under procedures of Sections 59‑19‑510 and 59‑19‑560 where appellant’s allegations of discrimination in pay were closely connected to his action for reinstatement involving construction of school policy. Lexington County School Dist. One Bd. of Trustees v. Mayer (S.C. 1984) 282 S.C. 36, 316 S.E.2d 679.

Where school district appeals to Circuit Court from decision of County Board of Education directing teacher’s reinstatement as coach on basis that he had been denied procedural protection afforded by school district policies, such appeal is to be tried de novo as equity case in which record of proceedings below is to be admitted as evidence but not accorded deference. On appeal from decision of Circuit Court, Supreme Court can find facts in accordance with its view of preponderance of evidence, in addition to correcting errors of law. Lexington County School Dist. One Bd. of Trustees v. Bost (S.C. 1984) 282 S.C. 32, 316 S.E.2d 677.

Aggrieved parties must exhaust the administrative remedies provided by this article before seeking relief in the courts for their grievances. Stanley v. Gary (S.C. 1960) 237 S.C. 237, 116 S.E.2d 843.

2. Scope of review

In reviewing a decision of a school district’s board of trustees, the reviewing court cannot substitute its own judgment for that of the school board. Barr v. Board of Trustees of Clarendon County School Dist. No. 2 (S.C.App. 1995) 319 S.C. 522, 462 S.E.2d 316, rehearing denied, certiorari denied.

On appeal from a lower court’s review of a decision of a school district’s board of trustees, the Court of Appeal may correct errors of law. Barr v. Board of Trustees of Clarendon County School Dist. No. 2 (S.C.App. 1995) 319 S.C. 522, 462 S.E.2d 316, rehearing denied, certiorari denied.

An appeal from the decision of the county board of education to the circuit court by a former county school district employee seeking to be rehired was properly brought under Section 59‑19‑560 and therefore, the Court of Appeals could find facts in accordance with its view of the preponderance of the evidence and correct errors of law; however, the former employee failed to show that the district’s nepotism policy substantially interfered with her right to marry and the failure to renew her employment contract did not violate her right to substantive due process. Hamilton v. Board of Trustees of Oconee County School Dist. (S.C.App. 1984) 282 S.C. 519, 319 S.E.2d 717.

**SECTION 59‑19‑570.** Appeal shall not act as supersedeas.

 Until the matter in controversy has been finally disposed of, no appeal shall act as a supersedeas or suspension of the order of the board having original jurisdiction of the cause.

HISTORY: 1962 Code Section 21‑247.6; 1952 Code Section 21‑103; 1942 Code Section 5317; 1932 Code Section 5348; Civ. C. ‘22 Section 2597; Civ. C. ‘12 Section 1736; Civ. C. ‘02 Section 1203; 1896 (22) 161; 1956 (49) 1655.

CROSS REFERENCES

Inapplicability of article to teachers employed for one year provisional contract period, see Section 59‑26‑40.

LIBRARY REFERENCES

Schools 48(7).

Westlaw Key Number Search: 345k48(7).

C.J.S. Schools and School Districts Sections 102, 104.

**SECTION 59‑19‑580.** Appeal from decision to operate or not to operate school.

 Any provision of this article to the contrary notwithstanding, the decision of any board of trustees of any school district to operate or not to operate a school or schools shall not be subject to the appellate procedures specified in this article. Any such decision may be appealed directly to the court of common pleas of the county in which any school to be operated or not to be operated is located; provided, however, that questions considered by the court upon such appeal shall be limited to questions of law.

HISTORY: 1962 Code Section 21‑247.7; 1962 (52) 2145.

LIBRARY REFERENCES

Schools 11.

Westlaw Key Number Search: 345k11.

C.J.S. Schools and School Districts Sections 4, 6, 74, 76, 396 to 398.

Attorney General’s Opinions

An appeal cannot be taken to the Board of Education as to the holding of a referendum concerning the building of a second high school in the district. Neither the School District Board of Trustees nor the County Board of Education have the authority to hold a referendum on this subject. 1994 Op Atty Gen, No. 94‑1, p. 17.

NOTES OF DECISIONS

In general 1

1. In general

A county school board of trustees properly exercised its discretion under Section 59‑19‑90 when it closed one high school and transferred an elementary school to the vacated buildings where the elementary school building needed extensive repairs for which the board did not have the funds, $333,000 was saved by closing the high school, the high school students would benefit from the enlarged curricula offered at the larger high schools, and although some students had farther to travel, other students would have less to travel. Gamble v. Williamsburg County School Dist. (S.C. 1991) 305 S.C. 288, 408 S.E.2d 217.