

School board, Jacksonville city attorney's opinions

Number: INFORMAL

Date: May 03, 2001

The Honorable Corrine Brown
Member of Congress
2444 Rayburn Building
Washington D.C. 20515

Dear Congresswoman Brown:

You have asked about the authority of the general counsel for the City of Jacksonville to direct the Duval County School Board to take action.

This office recently received several requests from state legislators regarding advice given to the Duval County School Board by the general counsel on the need to competitively bid school bus transportation contracts.[1] The legislators asked this office to determine whether Florida law required such competitive bidding. Based upon this office's review of the statutes and administrative rules, this office concluded that such contracts must be competitively bid although the school board retains discretion in implementing the competitive bid requirements.[2] A copy of that response is enclosed.

As noted in that response, section 7.202 of the City of Jacksonville Charter makes opinions of the general counsel binding until modified by the courts or an opinion of this office:

"The head of the office of general counsel shall be the general counsel who shall be the chief legal officer for the entire consolidated government, including its independent agencies. . . . Any legal opinion rendered by the general counsel shall constitute the final authority for resolution or interpretation of any legal issue relative to the entire consolidated government and shall be considered valid and binding in its application unless and until it is overruled or modified by a court of competent jurisdiction or an opinion of the Attorney General of the State of Florida dealing with a matter of state involvement or concern." [3]

A review of the transcript which you have supplied indicates that the general counsel was advising the board on its duties and responsibilities under its competitive bid process.

Accordingly, while it is the responsibility of the general counsel to advise the school board on legal questions, it is the school board which must make the ultimate decision regarding the provision of school bus transportation services, provided that any action taken by the school board is consistent with the rules of the State Board of Education and the policies and procedures established by the school board.

I trust that the enclosed information may be of assistance to you.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] See Legal Advisory Opinion of the General Counsel No. 00-01, dated April 17, 2000.

[2] See Inf. Op. to the Honorable E. Denise Lee, the Honorable Betty S. Holzendorf, and the Honorable Stan Jordan, dated April 26, 2001.

[3] See s. 7.201 of the Charter which establishes the office of the general counsel "which shall have the responsibility for furnishing legal services to the city and its independent agencies" *And see*, Art. 13 of the Charter providing for the Duval County School Board, specifically, s. 13.09 which provides that unless otherwise directed by the council, the Duval County School Board shall utilize the internal services of the city except that the Duval County School Board shall not be required to use the services of the city's Division of Procurement and Supply and the City's Division of Human Resources.