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OCT 23 1984

Honorable Jim Boyd
Superintendent, Cullman
County Schools
P. O. Drawer 518
Cullman, Alabama 35055

Boards of Education - Worthless
Check Act - Principals

School administrators and principals are not liable for debts when school charges or services are paid with worthless checks if the highest degree of care and diligence is exercised in accepting checks.

Dear Mr. Boyd:

The Attorney General has received and reviewed the request by the Cullman County Commission on Education for an opinion regarding worthless checks received by school administrators and principals for school charges, fees and services.

The Commission on Education posed the following questions:

"a. When a debt is owed to a school for any reason (fees, services, lunches, etc.) and is paid by check, will the principal be charged for the debt if an 'insufficient funds' check is received?

b. As the result of a prior attorney general's opinion regarding the

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collection of fees, school officials cannot force a student to pay fees if the student cannot pay. If however, the student does pay by check but the check is returned for insufficient funds, will it be charged back to the principal?

c. If the answer to a or b or both is affirmative, can the principal (acting as an agent of the school) use school funds to legally pursue recovery for the bad debts?

d. Does a school administrator have other legal recourse or alternative(s) with regard to the collection of bad checks paid to the school?"

Your first two questions are to be answered in the negative.

In a former opinion of the Attorney General found at Quarterly Reports of the Attorney General, volume 132, p. 48, it was concluded that public officials and state agencies are not liable for any loss incurred by virtue of taking counterfeit money. The opinion stated that if public officers or employees observed the highest degree of care and diligence in collecting and safeguarding money collected for the state or county, they could not be held personally liable for the collection of such counterfeit bills.

The situation at hand is analogous to the one presented in the above-cited opinion. Unless a party has presented prior checks returned because of insufficient funds, a principal has no way of knowing which individual is presenting a "bad check" and which individual is not. The Attorney General is of the opinion that if the principals or other school administrators exercise the highest degree of care and diligence in taking checks, they should not be held personally liable for any "bad checks" which are received. It is the maker of the check, not the holder who is ultimately responsible for the providing of the funds to make

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the check good.

The Attorney General recognizes that this is a "check oriented" society and that most debts are paid by checks. However, he recommends that school administrators and principals take steps and precautions to keep at the minimum the number of checks returned because of insufficient funds. Among these steps may be keeping a list of persons who have tendered bad checks in the past.

The answer to the above questions negates consideration of your third question.

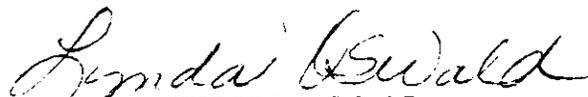
In answer to your final question, the school administrators may want to discuss this matter with the State Department of Examiners of Public Accounts and the State Department of Education to see if these agencies have a procedure to follow on the collection of worthless checks.

I hope that your questions have been sufficiently answered.

If our office can be of assistance to you in the future, please let us know.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL
BY:


LYNDA KNIGHT OSWALD
ASSISTANT ATTORNEY GENERAL

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