

86-00140

# OFFICE OF THE ATTORNEY GENERAL

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FEB 3 1986

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Carlton Smith, Ed.D.  
Superintendent of Education  
P. O. Box 2568  
Tuscaloosa, Alabama

Boards of Education - Contracts -  
Funds

The Tuscaloosa County Board of  
Education may terminate the lease  
agreement with the Athletic  
Boosters and compensate the  
Boosters for improvements on the  
land.

Dear Dr. Smith:

We have received your request for an opinion from this  
office. You state the following facts:

At the time of the creation of Hillcrest  
High School, the Board did not have suffi-  
cient capital funds to construct athletic  
facilities including a football field,  
bleachers and lighting. The Board agreed to  
lease land to the Hillcrest High School  
Boosters Club, and the Club in turn secured  
funds from a financial institution to  
construct a football stadium and light the  
same. That lease was for \$1.00 per year.  
Facilities have been developed and completed  
and put into operation and have been in use  
by Hillcrest High School for athletic events

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for four years. The interest on the loan has been paid by the Boosters Club. The Tuscaloosa Board of Education is considering and desires to take possession of the leased facility and operate the athletic fields as a part of school grounds under exclusive Board control. The Boosters Club is agreeable, provided the outstanding debt can be satisfied by the Board.

In opinions of the Attorney General to Honorable John R. Key, Superintendent of the Pike County Board of Education, January 11, 1982 and to the Honorable L. E. Holloway, Superintendent of Jackson County Schools, February 10, 1981, this office held that a county board of education may not assume the debt of a school organization. However, these opinions are distinguishable on their facts as there was no lease agreement or contract that existed in these two instances.

On September 28, 1983, the Tuscaloosa County Board of Education entered into a lease agreement with the Athletic Boosters under the provision of Code of Alabama 1975, §16-8-40(a) which specifically gives the county boards of education the right to lease property.

This lease states in pertinent part:

Lessor, may at any time, but upon ten (10) days written notice, terminate this Lease Agreement and assume possession of the premises, subject, however, to the condition that Lessor shall assume the responsibility for the payment of the actual cost of improvements not to exceed the amount of \$181,111.50 when its current bonded indebtedness is reduced in February of 1986.

Therefore, it is the opinion of this office that in the case where a lease forms the basis for assuming the debt of an organization it is proper to assume the debt and terminate the lease.

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I hope this sufficiently answers your questions. If, however, we may be of further assistance, please do not hesitate to contact us.

Sincerely yours,

CHARLES A. GRADDICK  
ATTORNEY GENERAL

By:

A handwritten signature in cursive script that reads "Alice Ann Boswell".

ALICE ANN BOSWELL  
ASSISTANT ATTORNEY GENERAL

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