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SPRINGFIELD

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FILE NO. S-1341

OFFICERS:
The Authority of a
County Superintendent
of Highways

Honorable Edward F. Petka
State's Attorney of Will County
Courthouse
Joliet, Illinois 60431

Dear Mr. Petka:

I have your letter concerning the authority of the county superintendent of highways wherein you ask the following questions:

1. Must the county superintendent of highways employ persons whom the county board directs him to employ, even if the county board has not followed its ordinary hiring procedures and the county superintendent of highways has no knowledge regarding the qualifications of such employees?
2. What authority does the county superintendent of highways have over the employees of the county highway department?

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For the reasons hereinafter stated, it is my opinion that the county superintendent of highways has no discretion to refuse to employ persons whom the county board has directed him to employ, even if he has no knowledge of the qualifications of such employees. It is also my opinion that the superintendent has authority, subject to the general supervisory powers of the county board, over the employees of the county highway department.

The county superintendent of highways occupies a distinct public office with distinct powers, but he is subordinate, in the exercise of those powers, to the county board. (Ill. Rev. Stat. 1975, ch. 121, par. 5-205.) The superintendent is authorized to "act for the county in all matters relating to the supervision of the construction or maintenance of any highway constructed or maintained in whole or in part at the expense of the county" (Ill. Rev. Stat. 1975, ch. 121, par. 5-205.2), and to supervise the construction or maintenance of all county highways. (Ill. Rev. Stat. 1975, ch. 121, par. 5-205.5.) The aforementioned supervisory powers give the superintendent authority, subject to the general supervisory powers of the county board, over the employees of the

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county highway department. The superintendent, however, has been given no statutory authority to hire or to discharge highway department employees.

The county board is required to provide the county superintendent of highways with the personnel necessary for the performance of his duties. (Ill. Rev. Stat. 1975, ch. 121, par. 5-202.) Therefore, the county board is primarily responsible for hiring the employees of the county highway department and determining the qualifications of such employees. Because the county board has primary authority to hire employees it necessarily follows that the county board has primary authority to discharge employees.

You state in your letter that the procedures for processing the records of new county employees have, in this instance, been disregarded by the county board. Hiring and processing procedures vary from county to county, and I have not examined, nor has it been my policy to examine the customary hiring and processing procedures of the county boards. Since the procedures in question are established by the county board, it would appear to be the prerogative of the board to change its hiring and processing procedures should it choose to do so.

Very truly yours,

A T T O R N E Y G E N E R A L