

1976 S.C. Op. Atty. Gen. 171 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4344, 1976 WL 22963

Office of the Attorney General

State of South Carolina

Opinion No. 4344

April 30, 1976

***1 RE: Prosecution of person charged with violation of Section 1-360.52 of the Code of Laws of South Carolina, 1962, as amended.**

Alvin J. Neal, Esquire
432 Broken Hill Road
Columbia, SC 29210

Dear Mr. Neal:

This is in response to your letter to Attorney General McLeod regarding the above-captioned matter.

Section 1-360.43 provides in relevant part as follows:

It shall be the duty of the Ethics Commission:

* * *

(e) To make investigations ... upon complaint by any individual, with respect to alleged violations of any part of this chapter by any public official or public employee except members of the General Assembly. All such complaints by any individual with respect to alleged violations shall be investigated by the State Ethics Commission and a determination made thereon ...

* * *

(f)(1) ... If, after such preliminary investigation, the Commission finds that probable cause exists to support an alleged violation it shall convene a hearing on the matter within thirty days after making such determination. * * *

(2) ... Upon completion of its investigation and any hearing thereon, the Commission, shall where appropriate, recommend disciplinary or administrative action or in the case of an alleged criminal violation refer the matter to the Attorney General for appropriate action.

* * *

It is, therefore, my opinion that Section 1-360.43 requires an Ethics Commission investigation and hearing for a person charged with a violation of the Ethics Act, prior to any criminal prosecution therefor.

Yours very truly,

Edward E. Poliakoff
Assistant Attorney General

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