

1972 S.C. Op. Atty. Gen. 131 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3313, 1972 WL 20453

Office of the Attorney General

State of South Carolina

Opinion No. 3313

May 15, 1972

***1 An individual may not serve as a teacher and be a member of either the Charleston County School District Board of Trustees or a member of a constituent board of trustees of Charleston County.**

Secretary,
Commissioners of Election for
Charleston County

Thank you for your letter of May 12, 1972, inquiring if a school teacher is eligible to run for either the consolidated school board in Charleston or one of the constituent trustee boards.

I do not find any statutory prohibition against a school teacher being a candidate for one of such offices. However, two factors must be considered:

a. The application of the Hatch Act must be considered. If the teacher is engaged in a federally assisted program, he may not be a candidate under the provisions of this federal statute. Whether the Hatch Act is applicable to the school district as a whole, by reason of the receipt of funds for any of its programs and would thereby preclude a teacher from being a candidate for political office in any circumstances is a matter which should be directed to the Office of the General Counsel, U. S. Civil Service Commission, 1900 E. Street, N. W., Washington, D. C. 20415. The application of the Hatch Act is a matter of federal concern, and inquiries in this regard should be directed to that Authority.

b. Even if a teacher may run for a political office, it is my opinion that the teacher would not be able to serve upon either of the boards while at the same time retaining his position as a teacher. I do not believe that the dual officeholding provision of the Constitution is affected, in that the teacher status is that of employee rather than officer. On the other hand, as indicated in your letter, as a member of the school boards, he would occupy the position of master servant while serving at the same time as a teacher, and such a procedure is contrary to public policy. See *McMahan v. Jones*, 94 S. C. 362, and *Sanders v. Belue*, 78 S. C. 174.

Accordingly, I advise that, while there may be no statutory impediment, except possibly the Hatch Act, against a teacher being a candidate for the office, upon a successful conclusion, the teacher could not continue to serve as a teacher and be a member of either the Charleston County School District Board of Trustees or a member of a constituent board of trustees of Charleston County.

I have not considered any rules or regulations which may have been promulgated in this respect by either of these two boards.

Daniel R. McLead
Attorney General

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