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OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

November 17, 2005

The Honorable Johnnie C. Edwards  
Municipal Judge, City of Chester  
523 McNinch Drive  
Chester, South Carolina 29706

Dear Judge Edwards:

In a letter to this office you questioned whether a city administrator has the authority to suspend a municipal judge without pay in circumstances where a private citizen files a complaint with the Commission on Judicial Standards against the judge.

I am unaware of any such authority. S.C. Code Ann. §§ 14-25-5 et seq. generally provide for the establishment of municipal courts in this State. A municipal judge is appointed pursuant to Section 14-25-15 "...for a term set by the council of not less than two years but not more than four years and until his successor is appointed and qualified." No specific statutory provisions provide for the suspension of a municipal judge. However, by way of analogy, S.C. Code Ann. § 22-1-30 provides that a magistrate, a judicial officer of similar jurisdiction,

...may be suspended or removed by order of the Supreme Court pursuant to its rules for incapacity, misconduct, or neglect of duty. A magistrate's failure to retire in accordance with Section 22-1-25 or a magistrate's failure to comply with the training and examination requirements of Section 22-1-10(C) may subject the magistrate to suspension or removal by order of the Supreme Court.

Rule 502 of the South Carolina Appellate Court Rules set forth the Rules for Judicial Disciplinary Enforcement. A municipal judge as a judicial officer is subject to Rule 502, SCACR. Rule 2(r) of Rule 502, SCACR defines a judge as "...anyone, whether or not a lawyer, who is an officer of the unified judicial system, and who is eligible to perform judicial functions, including an officer such as a magistrate, master-in-equity or special referee, is a judge within the meaning of these rules." As stated in a prior opinion of this office dated September 11, 2003:

...it must be remembered that Article V of the South Carolina Constitution places the Municipal Courts, including the Municipal Judges thereof under the auspices and

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control of the Supreme Court of South Carolina as part of the unified judicial system. Pursuant to Article V authority, the Supreme Court disciplines municipal judges for violations of the Code of Judicial Conduct. See, e.g., In the Matter of Martin, 315 S.C. 370, 434 S.E.2d 262 (1993); In the Matter of Derrick, 301 S.C. 367, 352 S.E.2d 180 (1990). And the Supreme Court maintains oversight over the Municipal Court and its judges as it does any other court in the unified judicial system.

Among the possible sanctions for misconduct by a judge is suspension by the Supreme Court. See: Rule 7(b)(2), Rule 502. SCACR.

Consistent with the above, I am unaware of any authority for a city administrator to suspend a municipal judge without pay in circumstances where a private citizen files a complaint with the Commission on Judicial Standards against the judge. Instead, any such suspension would be a matter for consideration pursuant to the Rules for Judicial Disciplinary Enforcement.

If there are any questions, please advise.

Sincerely,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General