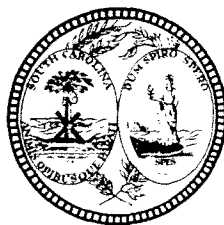


6170 Saluda



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

January 30, 1997

The Honorable Molly M. Spearman  
Member, House of Representatives  
Route 1, Box 490  
Saluda, South Carolina 29138

Re: Informal Opinion

Dear Representative Spearman:

You have requested this Office's interpretation of S.C.Code Ann. § 2-1-120 in regard to a public school teacher's ability to serve in the General Assembly.

Section 2-1-120 provides:

[n]otwithstanding any other provisions of law or regulations of the Department of Education, members of the General Assembly while serving elected terms of office shall be exempted from any requirements of recertification and such members' teaching certificates shall remain valid during that period. (Emphasis added.)

In interpreting any statute, the primary purpose is to ascertain the intent of the Legislature. State v. Martin, 293 S.C.46, 358 S.E.2d 697 (1987). The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988). The court must apply the clear and unambiguous terms of the statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991).

Representative Spearman

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According to the clear and unambiguous language of Section 2-1-120, legislators who hold teaching certificates are exempt from any and all recertification requirements during their terms of office, and such legislators' teaching certificates must remain in effect during that time. In my opinion, any reading or interpretation of this statute which requires a teacher/legislator to relinquish his or her teaching certificate while serving in the Legislature is in direct contravention to the express will of the General Assembly.<sup>1</sup> In fact, one could persuasively argue that, by exempting teacher/legislators from the recertification requirements, Section 2-1-120 actually facilitates a teacher's service in the General Assembly. This conclusion is supported further by numerous prior opinions of this Office that have found no statutory or constitutional prohibitions against teachers, principals or other school district employees from serving in the State Legislature. See, as examples, Ops. Atty. Gen. dated June 11, 1992; August 6, 1984; July 17, 1984; January 11, 1977; and March 11, 1976.

I trust this letter is responsive to your inquiry and that you will not hesitate to call on me if clarification or additional assistance should be needed.

Sincerely yours,



Zeb C. Williams, III  
Deputy Attorney General

ZCW,III/ph

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<sup>1</sup> Given the clear and unambiguous language of Section 2-1-120, I suspect the explanation of this Code section appearing in the Saluda County School District One Policy Manual contains a typographical error. I believe the drafter of this paragraph most probably meant to say "retains his teaching certificate ..." instead of "returns his teaching certificate ... ."