

The State of South Carolina



Office of the Attorney General

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January 15, 1987

Jacob H. Jennings, Esquire
Post Office Box 106
Bishopville, South Carolina 29010

Dear Mr. Jennings:

By your letter of November 21, 1986, you have asked whether, under existing law, a member of the Lee County Board of Education is prohibited from receiving pay for teaching an adult education course at the Lee County Vocational School.

You have advised that the individual in question was recently elected to serve on the Board of Education and that she is teaching the course at the Vocational School under a federally funded program. The funds came from the federal government to the South Carolina State Department of Education, then to the State Education Vocational Department, to the Lee County Vocational School, and finally to the Board of Education. The individual is then paid by the Lee County Board of Education on the same type of check as the other employees.

This Office has considered the same issue previously. In an opinion dated March 21, 1980, it was concluded that although the individual in question, a member of the Union County Board of Trustees who sought to teach either full-time or as a substitute teacher within the county, "could be employed as a Union County teacher if the appropriate approval were given under §59-25-10, §§59-15-10 and 59-19-300, as amended, would force her to resign her position as a board member."^{1/} The reasoning of that

^{1/} Section 59-15-10 of the Code of Laws of South Carolina provides in relevant part that "no employee of a public school system ... shall be eligible to serve as a member of a county board of education." Similarly, Section 59-19-300 declares it "unlawful for a school trustee to receive pay as a teacher of a free public school that is located in the same school district of which such person is a trustee."

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opinion and statutes cited therein are applicable in this instance. Thus, the individual is precluded from receiving pay as a teacher within Lee County if she serves on the Lee County Board of Education.

In addition to state law, the federal Hatch Act may be a consideration, since the individual is participating in partisan political activities and the position she would hold as a teacher would have some relation to federal funds. The Hatch Act, 5 U.S.C. §1501 et seq., limits the political activities of certain individuals whose positions of employment are related to federal funds. If a definitive ruling as to applicability of the Hatch Act should be needed, the appropriate agency to contact is: Office of the Special Counsel, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419; telephone number (202) 653-7188.

We trust that the foregoing has satisfactorily responded to your inquiry. A copy of the opinion discussed herein is enclosed for your use. Please advise if you need clarification or additional assistance.

Sincerely,

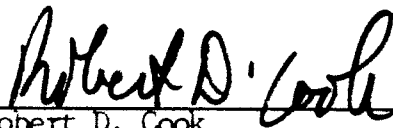
Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/rhm

Enclosure

REVIEWED AND APPROVED BY:


Robert D. Cook
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