

1984 WL 249933 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 17, 1984

\*1 The Honorable Edward W. Simpson, Jr.  
Member  
House of Representatives  
104 Lewis Road  
Clemson, South Carolina 29631

Dear Representative Simpson:

By your letter of June 27, 1984, you have asked for an opinion of this Office as to the legality of a member of the General Assembly, who is employed as the principal of a public elementary school of this State, receiving full pay as a legislator and as a principal, when he is usually absent from his employment as a principal for three days per week during the legislation session.

In an opinion dated March 11, 1976 to the Honorable John W. Matthews, Jr., this Office examined the question of a legislator concurrently receiving a salary as an elementary school principal and found no statutory prohibition. A copy of that opinion is enclosed, as well as a copy of Op. Atty. Gen. No. 77-15 dated January 11, 1977 addressing a similar situation and reaching basically the same conclusion.

Since the opinion to Representative Matthews was rendered in 1976, South Carolina's Ethics Act has been amended. We have re-examined the opinion in light of the Ethics Act amendments and find it to reflect the law as it currently exists. However, we would advise that certain aspects of the Ethics Act must be followed by a legislator—school principal. [Section 8-13-410\(1\), Code of Laws of South Carolina](#) (1983 Cum.Supp.), provides that '[n]o public official or public employee shall use his official position or office to obtain financial gain for himself.' Section 8-13-460 provides for action to be taken by a legislator when his financial interest might be affected:

Any public official or public employee who, in the discharge of his official duties, would be required to take action or make a decision which would substantially affect directly his personal financial interest or those of a member of his household, or a business with which he is associated, shall instead take the following actions:

- (a) Prepare a written statement describing the matter requiring action or decisions, and the nature of his potential conflict of interest with respect to such action or decision.
- (b) If he is a legislator, he shall deliver a copy of such statement to the presiding officer of his legislative branch. The presiding officer if requested by the legislator shall cause such statement to be printed in the journal and, upon request, shall excuse a legislator from votes, deliberations, and other action on the matter on which a potential conflict exists; provided, however, any statement delivered within twenty-four hours after the action or decisions shall be deemed to be in compliance with this section. . . .

Moreover, by Section 8-13-440, a legislator would be prohibited from using or disclosing confidential information gained by him in the course of his official activities in a way that would result in financial gain for himself or the school district. Thus, the Ethics Act would not prohibit a legislator from receiving his salary as an elementary school principal, but the guidelines of the Act must be followed by the legislator. See also Op. Atty. Gen. dated February 7, 1984 and January 13, 1984.

\*2 The question which you have raised would ultimately be best addressed by the legislator's school district, which may have a policy concerning the adjustment of salary in such a situation.

Sincerely,

Robert D. Cook  
Executive Assistant for Opinions

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