

1984 WL 249953 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 6, 1984

***1** The Honorable Denny W. Neilson
Representative-Elect
District No. 58
107 Florida Drive
Darlington, South Carolina 29532

Dear Representative Neilson:

This letter follows up your telephone conversation and correspondence with Executive Assistant for Opinions Bob Cook. You have asked whether your employment as District Vocational Job Placement Coordinator with the Darlington County schools would constitute a conflict of interest with your duties as a member of the General Assembly and whether any statutory provisions would prohibit your concurrently receiving compensation for both of these positions.

Based on prior opinions of this Office dated March 11, 1976 and July 17, 1984, we would advise that no conflict of interest would appear to exist for one who would be employed by a school district in your capacity while also serving in the General Assembly. However, South Carolina's Ethics Act must be followed to avoid any possible future conflicts of interest. [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 of the Code](#) provides for action to be taken by a legislator when his or her 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 of the Code](#), a legislator would be prohibited from using or disclosing confidential information in the course of his or her official activities in a way that would result in financial gain for himself, herself, or the school district.

As to your second question, you apparently refer to a provision in Part I, Section 130 of the Appropriations Act, Act No. 512 of 1984. That section provides in part:

Provided, Further, That no employee of any state department or institution shall be paid any compensation from any other department of the state government except with the approval of the State Budget and Control Board . . . [Emphasis added.]

*2 The above-cited section, however, has no reference to employees of school districts, holding a position such as District Vocational Job Placement Coordinator, inasmuch as the same are not, in our opinion, employees of a 'state department or institution' within the meaning of the above-cited provision. See [Sections 59-19-80](#) and -90 of the Code (1976 and 1983 Cum. Supp.). Thus, neither the Appropriations Act nor the Ethics Act would prohibit a legislator from receiving his or her salary as a school district employee, but the guidelines of the Ethics Act, particularly as to financial gain, need to be followed by the legislator. See also Op. Atty. Gen. dated February 7, 1984, and January 13, 1984.

The question you have raised regarding compensation would ultimately be best addressed by your school district, which may have a policy concerning the adjustment of salary in such a situation.

Sincerely,

Patricia D. Petway
Assistant Attorney General

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