

1980 WL 120771 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 15, 1980

*1 Mr. Pierce White, Jr.

Attorney at Law
Post Office Box 155
Saluda, South Carolina 29138

Dear Mr. White:

Mr. McLeod has referred your recent letter to me for reply. You have asked the following questions on behalf of your client who is a defeated candidate for the Board of Directors of Saluda High School:

1. Could a defeated candidate in the democratic primary run as an independent or republican in the November general election?

Every candidate for office files a pledge which states in part that you as a candidate . . . authorize the issuance of an injunction upon ex parte application by the party chairman, as provided by law, should I violate this pledge by offering or campaigning in the ensuing general election for election to this office of any other office for which a nominee has been elected in said primary election, unless the nominee for any such office has become deceased or otherwise disqualified for election in said ensuing general election. (emphasis added) South Carolina Code of Laws, 1976, Section 7-11-210.

If your candidate campaigns for an office that has been filled in the primary, he would be in violation of this law. However, there is no prohibition against that person being a write-in candidate. If he does not campaign for a write-in vote for election, but is written in at the election, there would be no prohibition against his serving if elected.

2. Could an employee of the Saluda School System legally file and run as a candidate for this office?

I cannot completely answer this question in that it is not clear to me what office the Board of Directors of Saluda High School would constitute. Therefore, I will simply refer you to the pertinent statutes. South Carolina Code of Laws, 1976, Section 59-15-10 prohibits an employee of a school system other than the county superintendent of education to be a member of the county board of education. Therefore, if the position is for the county board of education, this statute would prohibit an employee of that school system from holding the elective job. See also § 59-25-10. Section 59-19-300 prohibits a teacher from serving as a trustee and teaching and receiving a salary. However, you could teach in one district and serve on a board in another district.

It should also be pointed out that the above-cited statutes deal with a person holding the office; there is no prohibition in the statutes to an employee filing and running for office.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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