

1976 WL 30646 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 5, 1976

*1 Failing to renew a public school teacher's contract for the ensuing school year, without giving the teacher any notice or opportunity to be heard, violates Code Section 21-361, et seq.,

Dr. Michael Simmons
Superintendent
Dillon County School District No. 2

QUESTION PRESENTED:

Can a school district board of trustees decide not to renew a teaching contract without providing the teacher notice and an opportunity to be heard?

STATUTES, CASES, ETC:

Code of Laws of South Carolina, 1962, as amended, Section 21-361, et seq.,

DISCUSSION OF ISSUES:

South Carolina Code of Laws, 1962, as amended, Section 21-362, provides:

Any teacher, receiving a notice that he will not be re-employed for the ensuing year, shall have the same notice and opportunity for a hearing provided in subsequent sections for teachers dismissed for cause during the school year.

Code Sections 21-366 and 367 set up the procedures to provide the teacher with notice and an opportunity to be heard. Section 21-367 requires that the board of trustees shall affirm or withdraw the original decision only after the teacher fails to request a hearing, or after a hearing has been held.

The inescapable meaning of these Code Sections is to require an opportunity for notice and hearing before a binding decision is made not to rehire a school teacher for the next school year.

CONCLUSION:

A binding decision not to renew a contract, made without any notice for opportunity to be heard, violates Code Section 21-361, et seq.

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