

1974 WL 27799 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 31, 1974

*1 Thomasina F. Orr
3830 Gibson Street
Columbia, S. C.

Dear Mrs. Orr:

It is very questionable whether or not a teacher may lawfully deprive a child of his lunch as a means of punishment. There appears to be no South Carolina statute specifically forbidding the practice, but it may be suspect on other grounds. Courts generally allow reasonable disciplinary actions, to include corporal punishment where not forbidden locally, but these actions must be neither unnecessarily harsh nor arbitrary.

Both Article I section 5 of the South Carolina Constitution and Article IV of the United States Constitution forbid deprivation of property (in this case the lunch) without prior due process of law. If your child had previously purchased his lunch or had taken his own, there may be a constitutional attack on the practice. If he was deprived of his right to buy his lunch, he has possibly still been deprived of this 'right' without due process.

To prosecute such an action against the teacher would be very expensive in relation to the return, if any, you could expect. I would therefore advise you to complain, in writing, to the teacher, the principal, the superintendent and the school board. You may wish to appear and bring this matter up with the school board at its next public meeting.

Very truly yours,

Hardwick Stuart, Jr.
Assistant Attorney General

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