

1974 WL 27148 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 7, 1974

**\*1 RE: Annuity Contract for Employees in Schools and Educational Institutions**

Moultrie D. Douglas, Esquire  
Attorney for Fairfield County  
Post Office Box 359  
Winnsboro, SC 29180

Dear Mr. Douglas:

You have requested an opinion of this Office as to whether or not the Winnsboro schools may limit the purchase of annuities to companies the District chooses to designate rather than the company requested by their employees. Pursuant to State Law: The various school districts of this State and State-supported institutions of higher learning are authorized to enter into agreements to pay, at the request of their employees, a part of the incomes of such employees, not to exceed the exclusion allowance provided in [§ 403\(b\)\(2\) of the Internal Revenue Code](#) of the United States, for the purchase of annuity or other contracts which meet the requirements of [§ 403\(b\) of the Internal Revenue Code](#). § 61-441, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended).

In 1968 this Office issued an opinion a copy of which is enclosed to the affect that school district-employees have the right to purchase annuity contracts from any company which they may desire as long as the company is licensed to do business in South Carolina. This opinion dealt specifically with Section 61-535, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended) which provides that employees of the Richland County school district may purchase annuity contracts. Section 61-441 was enacted in 1972, some seven years after Section 61-535. The language in the two statutes is almost identical in that both allow school districts to enter into agreements 'at the request of their employees.'

In light of this statutory language, this Office is of the opinion that the 1968 opinion is still controlling in that the various school employees may purchase annuity contracts from any company which they may desire, provided the company is licensed to do business in South Carolina.

Yours very truly,

M. Elizabeth Crum  
Assistant Attorney General

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