

1974 WL 27546 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 17, 1974

**\*1 Re: No. 202—Military No. 277—Schools**

Mr. Gary Ashley  
Executive Director  
South Carolina School Board Association  
1401 Hampton Street  
Columbia, South Carolina

Dear Mr. Ashley:

In your letters dated December 12, 1974, you requested our opinion regarding the legality of a person serving as a member of the House of Representatives and, at the same time, as a school trustee and our opinion as to the interpretation which school districts in this State should give to the term 'without loss of pay' as used in Sections 44-168 and 44-861 of the South Carolina Code of Laws, as amended.

On November 29, 1974, the Attorney General adopted a regulation governing the issuance of opinions. That regulation contains the following paragraph:

In all inquiries or requests involving or relating to lesser political subdivisions (school districts, counties and municipalities) the requesting party should first be referred to the appropriate local attorney with instructions that he may, if necessary, seek the assistance of this office. (Memorandum, Daniel R. McLeod, November 29, 1974.)

Inasmuch as your requests seek opinions that either involve or relate to a school district, we must respectfully decline to provide you with those opinions. We might add, however, that heretofore we have advised that the positions of school trustee [Opinion No. 3624, 1973 OP.ATTY.GEN. 297 (September 17, 1973)] and member of the House of Representatives [Opinion No. 2988, 1970 OP.ATTY.GEN. 262 (October 1, 1970)] are both offices and, in South Carolina, one may not hold two offices at the same time. See, S.C. CONST. art. II, § 2 (1895); cf., Opinion No. 1314C, 1962 OP.ATTY.GEN. 77 (May 8, 1962); Opinion No. 1769, 1964 OP.ATTY.GEN. 284 (December 16, 1964).

We might also add that the Attorney General has heretofore advised that, in his opinion, members of military units entitled to leave of absence without loss of pay for designated periods should 'receive their full, normal compensation from the State and political subdivisions without regard to the amount which they may receive from military sources.' See, Letter from Daniel R. McLeod to F. A. McWilliams (April 14, 1972) (attached).

Best wishes,

C. Tolbert Goolsby, Jr.

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