

1973 S.C. Op. Atty. Gen. 78 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3488, 1973 WL 21965

Office of the Attorney General

State of South Carolina

Opinion No. 3488

March 12, 1973

*1 Section 21–240, Code of Laws of South Carolina, disqualifies a guidance counselor, who works for the Abbeville School District, from serving on the Board of Trustees for the Greenwood School District No. 50.

County Attorney
Greenwood County

Attorney General McLeod referred to me your request for an opinion relating to Section 21–240, Code of Laws of South Carolina. Specifically, your question was whether or not Section 21–240 disqualifies a guidance counselor, who works for the Abbeville School District, from serving on the Board of Trustees for the Greenwood School District No. 50. The issues as I see them are whether or not Section 21–240 applies to a teacher not teaching in the District governed by the Board on which he serves and whether or not a guidance counselor is a “teacher” for the purposes of Section 21–240.

As you can see from the wording of Section 21–240, the fact that a person is a teacher does not disqualify this person from serving on the Board of Trustees, however, does preclude such person from receiving pay as a teacher. For the purposes of this opinion, therefore, I am assuming that you are referring to a teacher who is receiving pay and who wishes to serve on a Board of Trustees without giving up compensation as a teacher.

“Where the terms of statutes are positive and unambiguous, exceptions not made by the legislature cannot be read into the Act by implication. 82 CJS, Statutes Section 38–2B, Page 891.” [Vernon v. Harleysville Mutual Casualty Company](#), 244 S.C. 152, 135 S.E.2d 841, 844 (1964). The terms of Section 21–240 are indeed positive and unambiguous; therefore, I do not feel that an exception should be implied so as to restrict the application of Section 21–240 to a teacher who wishes to serve as Trustee in the District in which he teaches.

As for a definition of teacher, no definition of this term appears in Title 21, relating to the public schools in South Carolina. In the absence of a general definition or a specific definition as it relates to Section 21–240, I am of the opinion that the term “teacher” should not be restricted so as to apply to only classroom teachers but should apply to all personnel holding a teaching certificate and employed under a professional contract.

Without any clear exception to 21–240 or any court's decision interpreting this statute, I am of the opinion that this office should not interpret this statute so as to imply an exception so as to limit its application to service in a particular district or to classroom teachers only.

Hardwick Stuart, Jr.
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