

1973 WL 26653 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 9, 1973

**\*1 In re: Municipal Auxiliary Police; Authority as Peace Officers.**

D. Laurence McIntosh, Esquire  
City Attorney  
Post Office Box 1540  
Florence, South Carolina 29501

Dear Mr. McIntosh:

You have inquired as to the arrest powers of members of a municipal auxiliary police force.

South Carolina law does not provide for auxiliary police forces co nomine. Section 47-242, 1962 Code of Laws, as amended, reads, in part, as follows:

‘Any such town or city council may appoint or elect as many policemen, regular or special, as may be necessary for the proper government of such city or town and may fix their salaries and prescribe their duties.’

Section 53-44 requires that every law enforcement officer below the grade of chief shall complete successfully the course of training offered at the Police Academy in Columbia within one year after his appointment. Towns of less than 2500 with less than 5 policemen are exempt from this requirement.

It is doubtful that the term ‘special policemen’ used in Section 47-242 contemplates an auxiliary force of special policemen to serve without pay, particularly since the Section makes reference to the council fixing salaries of both regular and special policemen. As used in the Section, ‘special policemen’ is more likely to mean special salaried individual officers with special duty stations, such as athletic contests, and other assignments of special nature. The Section is written in such general language, as it applies to ‘special policemen’, that a judicial determination is needed if the creation of an auxiliary police force is to be based on the authority of the Section.

The term ‘special policeman’ is defined in Words and Phrases:

‘- - - one who is not a member of a permanent and organized police force, but who merely engages to do temporary police duty in a particular place on a special occasion.’

This Office can advise at this time only that the Section is doubtful authority for creation of a municipal auxiliary police force.  
Yours very truly,

Joseph C. Coleman  
Deputy Attorney General

## ATTACHMENT

### PROPOSED BILL

TO PROVIDE FOR DISCIPLINARY ACTS GENERALLY, TO AUTHORIZE DELEGATION OF AUTHORITY TO MAKE SHORT TERM SUSPENSIONS, TO PROVIDE FOR NOTICE AND OPPORTUNITY FOR HEARING, TO AUTHORIZE PROVIDE FOR NOTICE AND OPPORTUNITY FOR CORPORAL PUNISHMENT, TO REGULATE CLUBS, ETC.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Any District Board of Trustees may authorize or order the expulsion, suspension, or transfer of any people for a commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of the rules and regulations established either by the District Board, County Board, or the State Board of Education, or when the presence of the people is detrimental to the best interest of the school. No expulsion or suspension shall last beyond the end of a semester, unless such suspension or expulsion is approved by the appropriate juvenile court or court having jurisdiction over juveniles.

\*2 SECTION 2. Any District Board may confer upon any classroom teacher the authority to suspend the pupil from that teacher's class alone not in excess of five school days per school year upon any principal or proper person in the principal's absence the authority to suspend a pupil from school not in excess of ten school days per school year, and upon any superintendent or proper person in the superintendent's absence the authority to suspend the pupil from school not in excess of fifteen school days per school year. Limitations: A classroom teacher may not suspend a pupil from class beyond the number of class periods specified, during the last ten days of a semester, or so as to make the pupil ineligible to receive credits for the course without the approval of the principal or proper person in the absence of the principal. A superintendent or a principal or the proper persons in their absence may not suspend a pupil from school beyond the number of school days specified, during the last ten days of a semester or so as to make a pupil ineligible to receive credit for the school year without the approval of the school board. The preceding limitations shall not apply where the presence of the people constitutes an actual threat to the class or the school.

SECTION 3. When a classroom teacher suspends a pupil from class, the teacher shall notify in writing, with a copy to the principal, with parents or legal guardians of the pupil, giving the reason for such suspension and setting a time and place at which the teacher shall be available for a conference with the parents or guardians within three days of the teacher's action. When the Board shall expell, suspend, or transfer a pupil for its authorized delegates temporarily suspend a pupil from school, the parents or legal guardians of the pupil shall be notified in writing, with a copy to the Chairman of the Board or other person designated by the Board, of the disciplinary action taken and the reason for such action. Such notice shall give a time and place at which a hearing officer designated by a court shall hear the pupils side and make a report to the Board for such action as it deems necessary. The parents or legal guardians shall have the right to appeal a teacher's action to the principal the principals or superintendents or other proper persons action to the Board, and the Board's action to the courts.

SECTION 4. The Board of Trustees shall have the authority to permanently expell an incorrigible pupil from school, provided such permanent expulsion is approved by the juvenile court or such other court in the District as may have jurisdiction of juveniles but exclusion of magistrates court. If the court determines that the student is indeed incorrigible, the court may approve the permanent expulsion of said pupil and declare such a child to be a delinquent and subject to the provisions of law in such cases.

SECTION 5. The governing body of each school district may provide for the corporal punishment of any pupil that deems just and proper.

\*3 SECTION 6. Any District Board of Trustees has the power and authority to regulate, control, or prohibit clubs or other such activities on school property or during school hours.

SECTION 7. This Act shall take effect upon approval by the Governor.

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