

The State of South Carolina



Office of the Attorney General

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September 15, 1986

The Honorable William D. Boan
Member, House of Representatives
Post Office Box 145
Heath Springs, South Carolina 29058

Dear Representative Boan:

Attorney General Medlock has referred your letter of September 3, 1986, to the Opinion Section for response. You had asked whether an individual residing in one school area (Buford area) but teaching in another area (Lancaster area) would be eligible for election to the board of school trustees of the area of her residence (Buford area).

It must be noted that Lancaster County has a unique system of education. See Act No. 848 of 1976, as amended by Act No. 601 of 1984. Instead of Lancaster County being divided into school districts, each with a governing board, in addition to a county-wide board of education, Lancaster County is divided into school areas, each with its own advisory board which has no function except as may be delegated to it by the Lancaster County Board of Education. Because of the unique nature of this system, this Office is not aware of any statutory prohibition which would not permit the teacher residing outside her area of employment to serve on the board of her residential area.

This question would ordinarily be answered in part by Section 59-19-300, Code of Laws of South Carolina (1985 Cum. Supp.), which provides:

It shall be unlawful for a school trustee to receive pay as a teacher of a free public school that is located in the

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same school district of which such person is a trustee.

This statute has been interpreted in numerous opinions of this Office; enclosed please find opinions dated July 12, 1982; July 15, 1980; September 26, 1979; January 10, 1979; and February 15, 1978. As you will see from these opinions, it is permissible to be elected to a school board of one's residence as long as the individual does not teach there while he serves as trustee. However, due to the uniqueness of Lancaster County's system, this statute would not be applicable.

If the teacher should be elected to serve on the area board, one additional potential problem must be addressed. According to section 3 of Act No. 601, 1984 Acts and Joint Resolutions, the Board is composed, in part, of four members of area school boards of trustees, one member being elected by each area board from among its membership. In this situation, where a teacher employed within Lancaster County would be potentially eligible, by virtue of membership on an area board, to serve on the Lancaster County Board of Education, a portion of Section 59-15-10 of the Code is applicable:

... No employee of a public school system other than the county superintendent of education shall be eligible to serve as a member of a county board of education.

Thus, if elected to an area board of trustees, the individual would not be eligible to serve on the Lancaster County Board of Education. See also Ops. Atty. Gen. dated August 21, 1985; July 15, 1980; April 17, 1980; March 21, 1980; and March 19, 1980, as representative of numerous opinions construing Section 59-15-10 of the Code.

One other consideration often addressed in similar situations is whether such service would violate master-servant principles, as discussed in an opinion of this Office dated May 1, 1986 (enclosed). Because the individual would not be making decisions or exercising any authority in the area in which she is employed, it appears that master-servant principles would not be violated.

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We trust that the foregoing and the enclosed opinions will satisfactorily respond to your inquiry. Please advise if you need clarification or additional assistance.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions