

1982 WL 189493 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 30, 1982

\*1 Robert Wilson Davis, Esquire  
E. Hilton Street  
Post Office Box 356  
Kershaw, South Carolina 29067-0356

Dear Bob:

In a letter to this office you questioned whether [§ 59-69-260, Code of Laws of South Carolina](#), 1976, would prevent a member of a particular local school board of Lancaster County from doing business with the Lancaster County Schools. In our telephone conversation, you indicated that in accordance with Act No. 848 of 1976 (59 STATS. 2419), there are four (4) area school boards and a separate County Board of Education in Lancaster. Also, as mandated by such Act, a member of the various local area boards of trustees is elected by each board to serve on the County Board of Education. You further indicated that the particular individual referenced in your letter, while a member of a local area board of trustees, does not also serve on the County Board of Education. Furthermore, pursuant to Act No. 813 of 1952 (47 STATS. 2014) there is only one school district for Lancaster County. Pursuant to § 1 of such Act, the authority of the County Board of Education appears to be total as the school matters within the County. However, according to your letter, the members of the four local area boards ‘function to advise the County Board and provide local insight.’

[Section 59-69-260](#), *supra*, provides that:

‘[i]t shall be unlawful for . . . any school trustee to make any contract or be pecuniarily interested, directly, in any contract with any school district of which he is trustee.’

Such section provides for a criminal penalty for such a violation.

This office has in previous opinions determined that [§ 59-69-260](#), *supra*, prohibited the sale of products to schools within the district on whose school board of trustees the salesman serves. *See*, 1964 Opinion of the Atty. Gen. No. 1699 and 1966 Opinion of the Atty. Gen. No. 2023. Furthermore, it is generally, held that statutes which are criminal or penal in nature are strictly construed against the State. *See*, [Lewis v. Gaddy](#), 254 S.C. 66, 173 S.E.2d 376 (1970).

It appears that the situation in Lancaster County is somewhat unique in that there is only one school district in the County but four defined school areas within the County with separate school boards. It appears that [§ 59-69-260](#), *supra*, must be construed to prohibit the referenced member of an area board of trustees from doing business with a school within the domain of such area board of trustees. However, since the referenced individual does not serve on the County Board of Education, it appears that [§ 59-69-260](#), *supra*, would permit him to do business with other schools within Lancaster County. I am assuming that the advice which you reference as being given by the area boards of trustees to the County Board concerns only their respective area schools.

As to any questions concerning the applicability of the State Ethics Act to your referenced situation, you should contact the State Ethics Commission at 1000 Assembly Street, Columbia, South Carolina 29201 for an opinion.

\*2 If there are any questions concerning the above, please advise.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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