

1976 S.C. Op. Atty. Gen. 302 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4443, 1976 WL 23060

Office of the Attorney General

State of South Carolina

Opinion No. 4443

September 7, 1976

*1 Dr. Carlos W. Gibbons
Associate Professor of Education
Lander College
Greenwood, South Carolina 29646

Dear Carlos:

Thank you for your letter of September 1 concerning the question of whether you can become a candidate for political office while employed by Lander College contingent upon your procuring administrative authority from the College for this action.

As you may be aware from the Press, a lawsuit is now pending against the Criminal Justice Academy bringing this very point into issue. The only difference is possibly that in that instance a police officer is involved and this may be a significant difference. A recent decision of the United States Supreme Court upheld a prohibition against personnel of a public agency running for office.

There is no Statewide statute or regulation on the matter. I have adopted the position that the decision of whether personnel in the various agencies may become candidates for political office rests with each individual agency. The correctness of this conclusion is at issue in the case against the Criminal Justice Academy. I plan to submit to the General Assembly a proposal that the matter be regulated by statute so as to give some uniform basis applicable throughout the entire State and the recent Supreme Court decision seems to indicate the need for this.

In my view, therefore, it will depend upon what Lander College wishes to do. I am unaware of any regulations which they may have on the matter.

Insofar as the application of the Hatch Act is concerned, an opinion can be secured from the United States Civil Service Commission based on hypothetical facts which can be submitted to them. These facts should include the precise nature of the position you hold and any funding which Lander receives from federal entities, particularly your relation to any areas that may be federally financed. Please let me know if you wish any assistance on the forwarding of the matter to the Civil Service Commission.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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