

1976 S.C. Op. Atty. Gen. 361 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4503, 1976 WL 23120

Office of the Attorney General

State of South Carolina

Opinion No. 4503

October 26, 1976

*1 The Honorable James B. Edwards

Governor

Columbia, South Carolina

Dear Governor Edwards:

You have inquired whether you have authority to suspend a member of the board of trustees of a school district who has been indicted in the federal courts upon a charge of mail fraud.

Article VI, Section 23, of the Constitution of South Carolina, provides, in part:

‘Any officer of the State or its political subdivisions, except members and officers of the Legislative and Judicial Branches, who has been indicted by a grand jury for a crime involving moral turpitude—may be suspended by the Governor until he shall have been acquitted—.’

Section 50–10 of the Code of Laws, 1962, also provides, in part, as follows:

‘Any State or county officer who is indicted in any court for any crime may, in the discretion of the Governor, be suspended by the Governor,—.’

In my opinion, the provisions of the Constitution are self-executing and the authority given therein may be exercised by you without implementation of the constitutional provision being made by the legislative body. It is my opinion also that the statutory provision must be read in conjunction with the overriding authority given you by the newer constitutional provision set forth above. It is not necessary to determine, in this instance, whether you may suspend for crimes not involving moral turpitude as the offense charged in the indictment is made under Title 18, Section 1341, *et seq.*, of the U. S. Code, which relate to mail fraud and which clearly involve moral turpitude. The school district is a political subdivision of the State within the meaning of Article VI, Section 23, of the Constitution.

Under the precise authority of this provision of the Constitution, I advise that, in my opinion, you have the authority to suspend a school district trustee who is indicted for the offense of mail fraud. The exercise of this authority is subject to your discretion.

Very truly yours,

Daniel R. McLeod

Attorney General

1976 S.C. Op. Atty. Gen. 361 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4503, 1976 WL 23120