

1976 S.C. Op. Atty. Gen. 400 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4536, 1976 WL 23153

Office of the Attorney General

State of South Carolina

Opinion No. 4536

December 3, 1976

*1 Mr. James P. Britton
Chairman
Sumter County Board of Education
Department of Education
Room 306, Court House
Sumter, SC 29150

Dear Mr. Britton:

I am in receipt of your letter of November 29, 1976, requesting an opinion (1) as to whether or not a school district superintendent, who is employed pursuant to a written contract of employment, is a teacher within the meaning of the South Carolina Teacher's Employment and Dismissal Act, Section 21–361 through Section 21–370.3, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, and (2) as to whether or not a county board of education has jurisdiction to hear an appeal by a school district superintendent from a decision of a school district board of trustees to suspend the superintendent.

While it is correct that Section 21–7 of the Code defines teacher as ‘any person who is employed either full time or part time by any school district either to teach or to supervise teaching,’ the South Carolina Teacher Employment and Dismissal Act clearly indicates an intent to distinguish between those who are engaged in teaching and those who are to evaluate or supervise the teaching. In fact, superintendents are treated as persons who perform some of the acts of which a teacher would complain rather than as persons who themselves would be aggrieved. As a practical matter, it is unlikely that most superintendents in South Carolina ‘supervise teaching’ in any meaningful sense of that terminology.

On the second issue, Section 21–247 of the Code provides ‘that any person aggrieved by any decision of the board of trustees of any school district in any matter of local controversy . . . shall have the right to appeal the matter in controversy to the county board of education . . .’ The language of the South Carolina Supreme Court in [Stanley v. Gary, 237 SC 237, 116 SE2d 843 \(1960\)](#) indicates that a ‘matter of local controversy’ would be presented by a decision to suspend the superintendent.

Therefore, it is the opinion of this Office that the specific use of the word ‘teacher’ in Sections 21–361, *et seq.* controls the broader definition found in Section 21–7 and that superintendents are not covered by Sections 21–361, *et seq.* Secondly, the decision to suspend a superintendent may be appealed to the county board of education pursuant to Section 21–247 of the Code.

Sincerely,

Kenneth L. Childs
Assistant Attorney General

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