

1975 S.C. Op. Atty. Gen. 67 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3999, 1975 WL 22297

Office of the Attorney General

State of South Carolina

Opinion No. 3999

March 18, 1975

***1 Re: The Appearance of Persons Not Licensed to practice Law Before School Boards in Representation of Teachers**

Honorable Theo Walker Mitchell

Member

S. C. House of Representatives

The State Capitol

Columbia, South Carolina

Dear Mr. Mitchell:

You have asked this Office for an opinion as to whether or not persons not licensed to practice law may represent teachers before School Boards. In your request, you have outlined the following activities that would be undertaken in the representation of the teachers:

The investigation of the matter; the accumulating of documentary evidence; the subpoenaing of witnesses in behalf of the teachers; the questioning and cross-examination of witnesses presented at any administrative hearing and the presenting of legal interpretations as to the admissibility of evidence and other legal problems arising at a hearing.

As you know, the South Carolina law is quite clear that no person shall practice law unless he is admitted and sworn as an attorney, it is equally clear that no corporation or voluntary association shall practice law in behalf of an individual or of another association or corporation. The power to define and regulate the practice of law necessarily extends to representation before administrative bodies. E.g., Clark v. Austin, 101 S.W.2d 977 (Mo. 1937). Therefore, unless some exception can be found, the representation of a teacher before the School Board by an individual not licensed as an attorney in the State of South Carolina would amount to the unauthorized practice of law. You have further asked whether or not a statute could be enacted which would allow non-lawyers to represent teachers before School Boards. The case law would seem to indicate that neither the General Assembly nor a State agency can authorize the practice of law before the agency; statutes cannot authorize laymen to practice law before administrative bodies. E.g., People ex rel Chicago Bar Assn. v. Goodman, 8 N.E.2d 941 (Ill. 1937); W. Va. State Bar v. Early, 109 S.E.2d 420 (W. Va. 1959).

S. C. Code Section 56–102 allows a citizen to represent the cause of another with leave of the Court first had and obtained. It is the opinion of this Office that the word ‘court’ in the above statute does not include a school board of any other administrative body. It is further the opinion of this Office for a non-lawyer to represent a teacher before a school board that individual must first obtain the approval of a court of competent jurisdiction and this would be only on an individual basis.

The South Carolina Supreme Court, in the opinion of this Office, would be the only body that could give blanket approval for the plan outlined in your letter.

Sincerely,

A. Camden Lewis

Assistant Attorney General

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