

1975 S.C. Op. Atty. Gen. 168 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4091, 1975 WL 22387

Office of the Attorney General

State of South Carolina

Opinion No. 4091

August 21, 1975

*1 County school boards may enter into multi-year contracts with District Superintendents or other Chief Administrative Officers, but such contracts cannot bind succeeding boards.

TO: Member
House of Representatives

QUESTION PRESENTED:

Whether County School Boards presently possess authority to enter into multi-year employment contracts with district superintendents or other chief administrative officers?

DISCUSSION OF ISSUE:

No statutory limitations exist on County School Boards' authority to enter into multi-year employment contracts with district superintendents and other chief administrative officers. It is clear in this state, pursuant to Section 21–228, South Carolina Code of Laws, 1962 (1974 Cum. Supp.), that employment contracts with teachers must be renewed annually; however, the positions under consideration here do not fall within the definition of ‘Teacher’. See No. 2373, Opinions of the Attorney General, October 30, 1967.

Section 21–7 of the Code (1974 Cum. Supp.) 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 positions in question here are administrative, as opposed to teaching or direct supervision of teaching. Also, note that Section 21–61.5 of the Code (1974 Cum. Supp.) sets qualifications and requires possession of a ‘superintendent certificate’ by district superintendents and administrative officers. These officers, therefore, are not limited to one year contracts pursuant to Section 21–228 of the Code.

Even though district superintendents and chief administrative officers are not limited to one year employment contracts, Consideration must be given to the binding effect of multi-year employment contracts on a subsequent county board. This point was thoroughly considered in an Attorney General's Opinion, dated February 5, 1973, a copy of which is enclosed. In that opinion, it was determined that a contract between trustees of a school district and a non-elected superintendent creating a three year term would be valid but terminable by subsequent board of trustees.

A contract as proposed in your question may be valid, but it would not bind a subsequent board if that board chose to reject it. The reasoning for this was pointed out by the Supreme Court in [Sanders v. Belue, 78 S.C. 171, 177, 58 S.E. 762 \(1907\)](#), wherein the Court considered authority of a County Board of Commissioners to bind subsequent boards: The statutory scheme of general supervision by the board, and subordinate supervision by the superintendent, repels the idea of one board having the power to impose a superintendent on a succeeding board. To sustain the power which the retiring board attempted to exercise in this case would lead to practical absurdity. If they could fix the term of the office by appointment for one year beyond their own term, they could fix it for ten years.

*2 See also, [State Ex Rel. Acker v. Major](#), 94 S.C. 472 78, S.E. 896 (1913), and [Newman v. McCullough, Mayor](#), 212 S.C. 17, 46 S.E.2d 252 (1948).

CONCLUSION:

As noted in the previously mentioned opinion, a contract as the one in question here would be voidable at the time a new majority is elected to the board. In view of the foregoing, it appears that legislative enactment would be necessary in order for a County School Board to possess meaningful contractual authority of the type in question. See No. 2373, Opinions of the Attorney General, October 30, 1967.

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