

SUBJECT: TEACHER PURCHASING EQUIPMENT AND MATERIALS FOR CLASS
AND SCHOOL DISTRICT

SUMMARY:

A teacher may not be involved in the purchase of equipment or materials from himself as a vendor if he performs any official function regarding such purchases. Purchases which are not within his official function are not prohibited.

QUESTION:

The attorney for a school teacher requests an opinion on the following situation:

1. The teacher teaches in an applied science class. The class occasionally needs various electronic equipment. The teacher also, during his own time as a hobby and avocation, works in the electronics field and buys components and materials for his own use and occasionally through his suppliers for third parties under a South Carolina sales tax license. He is a careful and prudent shopper and is able to obtain good wholesale prices.
2. The school itself or through the district office has solicited three quotes for such small purchases, except when less than \$100. The teacher's quote will include some small markup. None of these purchases have been in excess of \$500 and the occasions when he is able to be helpful on prices have been rather infrequent, perhaps four to five times during the school year. In each instance the supplies were incidental to administrative or classroom use, and the purchase price was less than or at least equal to the price that could be obtained through normal channels or the other quotes. It is not believed that this resulted in or will in the future result in any extra expense to the school district.

He questions whether the school teacher may continue to give the school the benefit of his prudent price shopping.

DISCUSSION:

This opinion is rendered in response to a letter dated February 10, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

The State Ethics Commission notes that Section 8-13-775 provides:

A public official, public member, or public employee may not have an economic interest in a contract with the State or its political subdivisions if the public official, public member, or public employee is authorized to perform an official function relating to the contract. Official function means writing or preparing the contract specifications, acceptance of bids, award of the contract, or other action on the preparation or award of such contract. This section is not intended to infringe on or prohibit public employment contracts with this State or a political subdivision of this State.

The School teacher is prohibited from contracting with the school or school district if he is authorized to perform any official function on the contract through writing or preparing specifications, acceptance of bids, award of the contract, or other action on the preparation or award of such contract. Absent such official function, he would not be prohibited from utilizing his expertise to purchase equipment and materials for his school or school district.