

The State of South Carolina



Office of the Attorney General

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October 20, 1992

The Honorable Thomas N. Rhoad
Member, House of Representatives
RFD 2, Box 108A
Branchville, South Carolina 29432

Dear Representative Rhoad:

Referencing an act of the General Assembly bearing ratification number 434 of 1992 relative to the school boards and the superintendent of education in Bamberg County, you have inquired as to the status of the superintendent of education should elections for the new school board members not be held by December 31, 1992: will the superintendent stay on until the new boards are elected, or will he go out of office regardless?

By section 4 of R-434, the Bamberg County Board of Education is abolished; that section reads in pertinent part:

Notwithstanding any other provision of law, the Bamberg County Board of Education is abolished upon the election and qualification of the board of trustees of each school district as provided in Section 1 of this act,

In section 5, the office of the county superintendent is abolished:

Notwithstanding any other provision of law, the office of the county superintendent of education is abolished effective December 31, 1992, and the powers and duties of that office are devolved upon the respective boards of trustees of the school districts of the county.

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In construing an act of the General Assembly, the primary objective of both the courts and this Office is to determine and effectuate legislative intent if at all possible. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Words used in a statute are to be given their plain and ordinary meaning. Worthington v. Belcher, 274 S.C. 366, 264 S.E.2d 148 (1980). Where the terms of a statute are clear, the court must apply those terms literally. Mitchell v. Mitchell, 266 S.C. 196, 222 S.E.2d 499 (1976).

Considering the language of sections 4 and 5 of R-434 and applying the foregoing rules of statutory construction, this Office is of the opinion that the office of superintendent of education for Bamberg County is abolished effective December 31, 1992, whether or not the new school board members have been elected. Section 4 evidences an intent that the old county board of education members continue until their successors have been elected and qualify; section 5, as to the superintendent, contains no such similar language. It must be concluded, due to the differences in language used, that the General Assembly intended to treat the superintendent in a manner different from the county board of education.

In conclusion, it is the opinion of this Office that the office of Bamberg County superintendent of education will be abolished effective December 31, 1992.

With kindest regards, I am

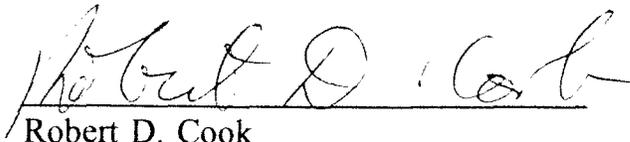
Sincerely,



Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



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