

The State of South Carolina



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December 21, 1987

The Honorable John W. Pettigrew, Jr.
Member, House of Representatives
Post Office Box 338
Edgefield, South Carolina 29824

Dear Representative Pettigrew:

Those portions of your recent letter regarding changes in the election provisions of a recent Order regarding the Edgefield County School District have been referred to me for reply. As you are aware from our telephone conversation, the Order you attached to your letter did not have the attached Exhibit A which was the plan the county developed for a single member plan and apparently you do not have a copy of the Exhibit. I called Bruce Davis, who was the attorney for Edgefield in this lawsuit, and he has sent me a copy of the Order and the plan for the single member district. However, this Exhibit does not contain the language that the Court quotes from extensively. This language is apparently in the amended submission to the Justice Department of a single district plan.

I will, therefore attempt to respond to your letter without access to this documentation. This will make the responses to your inquiries not definite answers in that the submission may detail information as to the plan of which I am not aware. For instance in your third question you inquire as if future boards can be partisan or non partisan. The Order does not mention the elections being either; therefore, this may be information contained in the submission to the Justice Department.

The only answer that is clear is in response to your question number four. You have asked

[w]hat changes, if any, to the election and terms of office of the Edgefield County School Board Trustees would require Justice Department approval?

Any change.

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As to your other questions I will answer them as follows:

1. Can the Legislature reduce the terms of office from six years and, if so, when could it be effective?

In general the Legislature can reduce the term of an office and it would be effective with approval of that change from the Justice Department. However, in this specific instance, the County has just adopted a plan that was likewise adopted by the Court and which has presumably now received Justice Department preclearance. Any immediate changes in these terms would probably take a showing of a compelling reason to do so. Additionally, any immediate changes might not only take Justice Department preclearance but also approval by the Court.

2. Are future school board elections to be held in April as provided in Act 1276 of 1974 or are they to be held in conjunction with the November general elections?

The Order on page 2 refers to the election being held on November 10 as a "special election". However, without seeing the submission the county made it would be impossible to know if the submission provided that this would also be the future date for the elections. If it states that the initial election will be a special election on November 10 and is silent as to future elections, then the election would probably be held at the regularly scheduled time in that the submission adopting single member districts would not have changed the general law in this area.

3. Are future school board elections to be partisan or nonpartisan and can the Legislature make that determination?

The Order does not refer to the elections as being partisan or non-partisan. In general, as with terms, the Legislature can designate the election to be partisan or non-partisan. However, see the response to question one as to preclearance, etc.

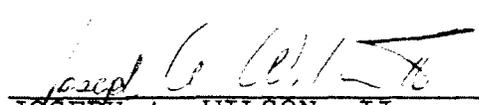
I hope this letter will be of some assistance to you and I regret that it is impossible to provide you with a more specific response. You may want to discuss your questions with Bruce Davis, the attorney for the school board, who may have more familiarity with the language of the submission and how it may relate to the questions you have raised.

Sincerely yours,


Treva G. Ashworth
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