

1980 WL 121110 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 20, 1980

**\*1 RE: Possibility of Removing Board Member for Non-attendance of Board Meetings**

Ms. Betty E. Callaham  
Librarian  
The South Carolina State Library  
1500 Senate Street  
P. O. Box 11469  
Columbia, South Carolina 29211

Dear Ms. Callaham:

In your letter of February 28, 1980, you requested an opinion concerning the possibility of including a provision in the Board by-laws pertaining to the removal of a Board member for not attending the Board meetings. Please be advised that the power of removal of a Board member is not among the powers of the Board enumerated in [Section 60-1-50 of the Code of Laws of South Carolina \(1976\)](#), and that power cannot reasonably be implied. Furthermore, Section 1-3-240 gives the Governor the power to remove any public officer (for example, a State Library Board member) who is guilty of persistent neglect of duty in office. A provision in the by-laws of the State Library Board requiring the removal of a Board member for non-attendance would be a usurpation of the Governor's power and would have no legal effect.

However, the Board may promulgate a rule authorizing or requiring the Board to recommend to the Governor the removal of any Board member who is absent from a specified number or percentage of regularly-scheduled Board meetings. This type of provision would be consistent with due process standards, giving individual Board members notice of the Board's official position on the matter of non-attendance of meetings.

I hope this has been of some assistance to you. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Richard B. Kale, Jr.  
Senior Assistant Attorney General

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