

1976 WL 30609 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 15, 1976

*1 Mr. C. D. Padgett
Attorney at Law
521 N. Granard Street
Gaffney, South Carolina 29340

Dear Mr. Padgett:

Following the death of a member of the Board of Trustees of Cherokee County School District No. 1, who was elected from Cherokee Township East of the Broad River, the question has been presented as to what procedure should be followed under the applicable law.

The Act providing for Cherokee County School District No. 1 (67 Acts 1407) provides, in my opinion, for the following method of election which must be followed.

Of the nine members comprising the Board, four were elected for terms beginning in April 1968 to serve for terms of four years, expiring in 1972 and in 1976.

An election was required to be held in 1970 to elect an additional three members who were required to be residents of the area West of the Broad River, each to serve terms of four years, beginning 1970 and expiring in 1974 and 1978.

Also in 1970 two additional members were required to be elected, to be residents of Cherokee Township East of Broad River, one of such members to serve for a two-year term which would expire in 1972 initially, and thereafter at four-year intervals, in 1976 and 1980.

The other member from Cherokee Township was initially elected to serve a four-year term.

This staggered formation provided by the statute must, in my opinion, be kept. [Heyward v. Long, 178 S.C. 351, 183 S.E. 145.](#)

As I construe the statute, four members' terms will expire in April 1976 and all of these come from West of the Broad River. An additional member's term will expire in 1976, this member to come from Cherokee Township East of the Broad River. This is the successor term to the individual who received the short two-year term in 1970. The other member from Cherokee Township is serving a term to expire 1978.

It is my information that the deceased member was serving the term from Cherokee Township which would have expired in April 1978. The other member from Cherokee Township is serving a term which will expire in April 1976.

The Act of 1967, Section 28, provides that 'in case of any vacancy in the Board of Trustees, the Board shall order a special election to fill such vacancy.' This statute supersedes the former statute, Section 21-1717.

In accordance with the powers vested in the Board of Trustees and in accordance with the statutory method of staggered terms, it is my opinion that the Board should order a special election to fill the vacancy of the unexpired term of the deceased member, such term to expire in April 1978.

An election must be held in April of 1976 to fill the term of the other member from Cherokee Township whose term will expire at that time. A 30-day notice of intention to be a candidate is required, and, in view of this, plus the imminence of a forthcoming election, it appears to me that it is a reasonable position to adopt that both elections be conducted at the same time on the first Tuesday in April 1976. At that time, candidates may file for either the unexpired term or for the full term.

*2 With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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