

1972 WL 25517 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 8, 1972

*1 Greenwood County Board of Education

c/o Mrs. Toni P. Ross
Administrative Assistant
County Courthouse
Greenwood, South Carolina

Gentlemen:

Your letter of May 3, 1972, directed to the Honorable G. P. Callison, County Attorney, has been transmitted to me by Mr. Callison, with the request that I express an opinion thereon. Mr. Callison properly considers that it is best that he not render an opinion upon this matter in view of his association in the practice of law with the Chairman of the Board of Trustees of School District No. 50, Mr. Watson L. Dorn.

Section 21-2911, Code of Laws for South Carolina, 1962, provides that Greenwood County School District No. 50 should be governed by nine trustees to serve terms of office which are fixed by statute so as to expire at yearly intervals. The statute provides that the trustees shall be appointed by the County Board of Education, with the proviso, however, that 'the County Board of Education shall call for an election of trustees upon a petition signed by not less than 10% of the qualified electors of the district.' A petition containing the requisite number of signatures has been presented to the County Board of Education petitioning for 'an election of school trustees.'

As I understand the problem, there are two questions presented:

- (a) What offices are affected by the petition?
- (b) Is a new petition required as each vacancy in office occurs?

With regard to question (a), it is my opinion that the sequential expiration dates for terms of office, referred to in the decisions of the courts as 'staggered terms,' must be continued. The Supreme Court of South Carolina has specifically so held in the case of [Heyward v. Long](#), 178 S.C. 351, 183 S.E. 145. Apparently, the terms of three trustees will expire each year and I assume that some trustees will therefore have terms of office expiring December 31, 1972. The petition, in my opinion, requires that the election be held for the vacancies which are to be filled for terms of office expiring this year. The election merely replaces, as a means of filling those vacancies, the appointive power which is basically vested in the Board of Education.

It is also the opinion of this Office that the petition for election of trustees does not provide for a permanent means of election but is directed toward the vacancies which are to be filled in the present year. When the next vacancies occur, the method of filling these vacancies would be that which is basically provided for by Section 21-2911, *i.e.*, appointment by the Board of Education, unless a petition seeking the election of the trustees is filed.

This latter conclusion is not readily apparent but appears to be a reasonable construction to be given to the statute. It is noted that the statute provides for the calling of 'an election' upon a petition of qualified electors, and, generally, the word 'an' would indicate a single election. Moreover, the basic authority for selection of trustees is by appointment of the Board of Education

and the elective process is a departure therefrom; if the election of trustees was intended to be a permanent feature after the filing of one petition, it is probable that the Legislature would have so stated.

*2 I advise, therefore, that, in the opinion of this Office, the staggered formation of trustees' terms for School District No. 50 must be kept intact; that the petition for election of trustees affects those trustees whose terms are presently expiring and that the force of the petition will expire after the elections referred to herein have been held.

Very truly yours,

Daniel R. McLeod
Attorney General

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