

5317 Lebrary

# The State of South Carolina



## Office of the Attorney General

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January 3, 1994

Stephen D. Baggett, Esquire  
Greenwood County Attorney  
Post Office Box 1547  
Greenwood, South Carolina 29646

Dear Mr. Baggett:

As County Attorney for Greenwood County, you have requested the opinion of this Office as to whether the Greenwood County Board of Education may entertain an appeal from the School District No. 50 Board of Trustees as to the holding of a referendum concerning the building of a second high school in that district.

It is our understanding that an appeal has been taken to the Board of Education pursuant to S.C. Code Ann. § 59-19-510 *et seq.* (1992). Under these provisions, § 59-19-580 makes clear that an appeal cannot be taken as to this issue, as that Code section states that "... the decision of any board of trustees of any school district to operate or not to operate a school or schools shall not be subject to the appellate procedures specified in this article." Section 59-19-580 provides that decisions may be appealed to the Court of Common Pleas but that "questions considered by the court upon such appeal shall be limited to questions of law."

Moreover, prior opinions of this Office indicate that neither the School District Board of Trustees nor the County Board of Education would have authority to hold a referendum as to this subject. Enclosed are copies of opinions dated February 13, 1991 and July 21, 1978, discussing authority to hold referenda under other, similar circumstances. No local law appears to exist for Greenwood County that would authorize the holding of a referendum on this subject. Of course, the General Assembly could, by general law, authorize such a referendum if it wished.

*Request Letter*

Mr. Baggett  
Page 2  
January 3, 1994

We trust that the foregoing has satisfactorily responded to your inquiry. If you need additional assistance, please advise.

With kindest regards, I am

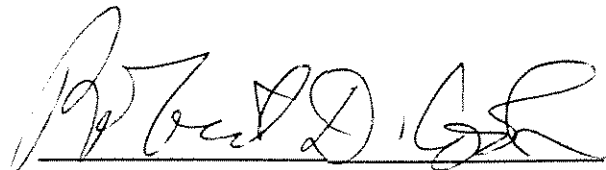
Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an  
Enclosures

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions