



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 21, 1996

The Honorable Harriett L. Rucker
Member, Newberry County Board of Education
2213 Main Street
Newberry, SC 29108

Dear Mrs. Rucker:

You have requested legal advice regarding the meaning of the term "public hearing" as used in S.C. Code Ann. § 6-1-80 (Supp. 1995). This provision requires certain notice to the public by school districts and other named governmental bodies "...by advertising the public hearing before the adoption of its budget for the next fiscal year...."¹

The term "public hearing" is not defined in the above statutes or, apparently, by South Carolina case law." An Ohio case does define this term as used in an Ohio statute to mean a hearing in which the ..."general public may speak and express views on governmental ... and policy considerations...." This definition appears to be consistent with the legislative intent in §6-9-80 that the public receive notice of these hearings. See Dickinson, supra, note 1.

¹ You have not questioned whether a "public hearing" actually has to be held by the district. Section §6-1-70 references §4-9-130 (1986) which does require public hearings before certain action by county councils. Although §4-9-130 does not apply to school districts, the passage of notice requirements for such hearings by school districts suggests a legislative intent to require those bodies to hold such hearings on budgets. South Carolina Department of Highways and Public Transportation v. Dickinson, 281 S.C. 134, 341 S.E. 2d 134 (1986) ("The ... primary function in interpreting a statute is to ascertain the intention of the legislature....")

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Therefore, the public must be permitted this opportunity to speak and express its views at the budget hearings covered by \$6-1-80; however, we cannot make a determination of whether the public was permitted this opportunity at the particular meetings in question in that factual investigations do not fall within the scope of opinions of this Office. Ops. Atty. Gen. (December 12, 1983). Nevertheless, inviting the public's comments and questions at the meeting is certainly a means of ensuring that opportunity.

You have also asked other questions. They are currently under review.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

Yours very truly,



J. Emory Smith, Jr.
Assistant Deputy Attorney General

JESjr