

# The State of South Carolina



## Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE: 803-734-3680  
FACSIMILE: 803-253-6283

July 15, 1991

Steven E. Mundy, Esquire  
Abbeville County Attorney  
Post Office Box 218  
Abbeville, South Carolina 29620

Dear Mr. Mundy:

Your recent letter addressed to Attorney General Medlock has been referred to me for reply. You have stated that in a recent election for Abbeville County School District 60 the two incumbents ran unopposed. As they were unopposed, no election was conducted and these two persons were declared the winner. An individual filed a protest of the election based on the grounds that an election should have been conducted. The protest was denied. You have inquired if the election

...was valid when the incumbents were unopposed and no ballots were printed nor were the polls opened?

It has been the prior opinion of this Office that

...although there is no specific statutory or case law guidance ... it would appear that if no candidates file for an election, the election should still be held with the opportunity for a write-in vote for those offices.

April 14, 1988, Opinion to Charles Whetstone, copy enclosed.

This opinion represents the general law and, of course, would not apply if a special law concerning trustee elections for Abbeville County did specifically provide for such a contingency.

Steven E. Mundy, Esquire  
July 15, 1991  
Page 2

Act 94 of 1961 establishes the procedure for the election of trustees for Abbeville. This Act provides in part that if "... there are no candidates for a vacancy on the Board of Trustees, the vacancy shall be filled by appointment." However, this section of the Act governs what occurs when there are no candidates not when only one candidate has offered. The Act specifically does not state if only one person applies he automatically is declared elected. 1/ Without such a specific exception, the general law favoring an election with the possibility of a write-in vote would appear to apply. See S.C. Code Ann. §7-13-360 (1976).

However, as the April 14, 1988 letter quoted above indicates, the law is not clear in this area. As a protest was filed concerning this election on this specific point, and as further legal proceedings may still arise from this election, this Office would be unable to provide you with any more definite advice concerning your question. The Office policy is to decline to provide an opinion on issues either presently before a court or that may potentially be brought before the Court.

I am enclosing two prior opinions of this Office and hope that they will provide you some additional assistance on this question.

Very truly yours,



Treva G. Ashworth  
Senior Assistant Attorney General

TGA:bvc  
Enclosures

cc: Nancy H. Stokes, Chairman  
Abbeville County Registration  
and Election Commission

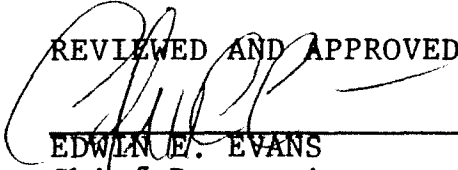
1/ Unlike the special legislation governing Greenwood School District 50 which does insert a specific provision declaring such persons the nominees. Act 546 of 1982.

Steven E. Mundy, Esquire

July 15, 1991

Page 3

REVIEWED AND APPROVED BY:



---

EDWIN E. EVANS

Chief Deputy Attorney General



---

ROBERT D. COOK

Executive Assistant for Opinions