

The State of South Carolina



Office of the Attorney General

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March 4, 1991

The Honorable James C. Johnson
Member, House of Representatives
District No. 13
Greenwood County
128 Maxwell Avenue
Greenwood, South Carolina 29646

Dear Representative Johnson:

You have requested the opinion of this office as to whether presidents of the various technical education colleges in this state are entitled to membership on the Council of Presidents established by S.C. Code Ann. Section 59-103-40 (1990). This statute provides for ". . . a Council of Presidents consisting of the presidents of the State institutions of higher learning." (emphasis added). Section 59-103-5 (2) defines "public institution of higher learning" as meaning any ". . . state-supported-post-secondary educational institution and shall include technical and comprehensive educational institutions." (emphasis added) This definition applies to the chapter of the Code in which Section 59-103-40 is contained.

The following rules of statutory construction are applicable here:


Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning. The . . . primary function in interpreting a statute is to ascertain the intention of the legislature (South Carolina Department of Highways and Public Transportation v. Dickenson, 288 S.C. 134, 341 S.E.2d 134 (1986)).

March 4, 1991

In addition, statutes addressing the same subject should be construed together so as, when possible, to give effect to both. Lawis v. Gaddy, 254 S.C. 66, 173 S.E.2nd 376 (1970); Sutherland statutory construction, Vol. 2A Section 51.02; Ops. Atty. Gen. July 12, 1985. Under these rules of construction, because technical institutions are expressly included in the term "public institution of higher learning" in Section 59-103-5 which means any "state-supported-post-secondary educational institution", and because §59-103-40 very similarly refers to "state institutions of higher learning", the Legislature appears to have intended that technical education colleges be among those institutions whose presidents serve on the Council of Presidents. 1/

If you have any questions, please let me know.


Yours very truly,

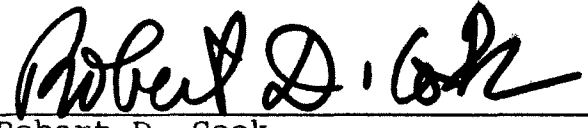

J. Emory Smith, Jr.
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cc: Richard P. Fulmer, Staff Attorney
House Education Committee

REVIEWED AND APPROVED BY:


Joseph D. Shine
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1/ Prior opinions of this office concluded that technical college directors were not eligible for membership on the Council of Presidents, but that opinion was based upon a different definition of "institutes of higher learning" and was issued over five (5) years prior to the passage of the above referenced definition of "public institution of higher learning." Ops. Atty. Gen. January 5, 1973".