

1983 WL 181798 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 16, 1983

**\*1 SUBJECT: Education-School Districts-Trustees**

Vacancies on the Lee County Board of Education should be filled by the Governor pursuant to [Section 1-3-220 of the Code of Laws of South Carolina \(1976\)](#).

The Honorable Isaac C. Joe  
Representative-Lee County

**QUESTION:**

In what manner should vacancies on the Lee County Board of Education be filled?

**OPINION:**

The most recent provisions for the selection of members of the county board of education for Lee County (board) are set forth in Act 278, Acts and Joint Resolutions of South Carolina, 1979. This Act provides for a seven (7) member board which is elected from single member districts.

Neither Act 278 nor any other statute specifically provides for the filling of vacancies on the board. Previously, the board was appointed by the Governor upon the recommendation of the legislative delegation with vacancies filled 'in the same manner'. Act 1144 of 1968. These provisions were entirely deleted by Act 278. Although § 59-15-10 provides for a method of appointing and filling vacancies on county boards of education generally which is similar to that set forth in the 1968 law, § 59-15-10 should provide no assistance here. The deletion of the similar 1968 vacancy provisions by Act 278 indicates an intent that neither they nor those in § 59-15-10 should apply in Lee County. The inapplicability of the provisions of § 59-15-10 is also supported by the fact that they are tied to a method of selecting county board members which is not used in Lee County. For this same kind of reason, the vacancy filling provisions of [§ 59-19-60 of the Code](#) should be inapplicable even though the board is '... constituted the Board of Trustees for the school district of Lee County ...'

Because of the absence of other authority for the filling of the vacancies in question, any vacancy on the Lee County Board of Education should be filled by the Governor pursuant to [§ 1-3-220](#). See also [§ 4-11-20 of the Code](#). A previous opinion of this office held that positions on the county board of education of a countywide school district appeared to constitute county offices under this law. The opinion said that the statute now codified as [§ 1-3-220](#) would be controlling as to those offices in the absence of other authority. Here, the Lee County Board is the central authority for a countywide district for which no other means are provided for filling vacancies. Thus, [§ 1-3-220](#) is applicable to the vacancy in question.

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