

1983 WL 181769 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 25, 1983

*1 The Honorable G. William Dudley
Executive Director
State Board for Technical and Comprehensive Education
111 Executive Center Drive
Columbia, South Carolina 29210

Dear Mr. Dudley:

You have requested the opinion of this office as to several hypothetical situations that could arise in the selection of the chief administrative officer of a technical college. [Section 59-53-52\(8\) of the Code of Laws of South Carolina \(1976\)](#), as amended, states that the area commission 'shall . . . employ the . . . officer from a list of at least three candidates recommended by a committee . . . (emphasis added)' designated by the statute. The mandatory nature of the language used and the specific designation of a committee that is representative of various aspects of the technical college system indicates that this employment procedure must be followed. See Sutherland Statutory Construction, Vol. 2A, § 57.03 (4th Ed.). Therefore, only persons recommended by this committee may be chosen as officers by the area commission. If an area commission member or another person who is not a member of the committee desires to nominate a candidate, this nomination must be referred to the committee for recommendation before the candidate can be employed. If a candidate is not recommended, the area commission may ask that the committee reconsider, but the commission may not bypass the recommendation process or mandate its result. Accordingly, if all recommended candidates are rejected by the commission, the commission may not vote on other candidates unless it first requests and receives recommendations for them by the Committee.

If we may be of further assistance, please contact us.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

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