

1981 WL 157885 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 28, 1981

*1 The Honorable Nancy Stevenson
Lieutenant Governor of South Carolina
Post Office Box 142
Columbia, South Carolina 29202

Dear Lieutenant Governor Stevenson:

You have asked the opinion of this Office on how persons may become candidates in a special election to fill a vacancy in the office of the superintendent of education of Oconee County. You further have inquired whether a political party primary is necessary for this purpose.

Act Number 383 of 1961, which was codified in part as Sections 21-3661 through 21-3663 of the Code of Laws of South Carolina, 1962, provides, in the event of a vacancy in the office of the superintendent of education of Oconee County, for a special election to fill the unexpired term. Although Act 383 sets forth certain qualifications and procedures with which candidates for this office must comply, it does not specifically provide a method for persons being nominated to appear on the ballot. Thus, the method or methods for such nomination would be governed by the general statutes on elections contained in Title 7 of the 1976 Code. Section 7-1-40.

Section 7-11-10 provides two methods for the nomination of candidates by political parties: the political party primary and the political party convention. Which of these methods a political party will use to nominate its candidate for an elective office is a decision left to the party to make in accordance with the applicable statutes and party rules. Sections 7-11-20, 7-11-30. Section 7-11-10 further provides that persons may be nominated as candidates and placed on the ballot through the petition method. See Sections 7-11-70, 7-11-80 and 7-13-350, as amended. Petition candidates are designated on the ballot as begin such, while persons nominated by the primary or convention method are designated on the ballot as being affiliated with a political party. Section 7-13-330. It also should be noted that the ballot must contain a place for electors to cast a write-in vote for qualified persons. Section 7-13-360.

Based on the foregoing, it is the opinion of this Office that qualified persons may be nominated to appear on the ballot in a special election to fill an unexpired term in the office of the superintendent or education of Oconee County by the political party primary method, the political party convention method or the petition method. The decision of whether a political party will use the primary or convention method to nominate its candidates for such an election is to be made by the party in accordance with the provisions of Title 7 of the 1976 Code, as amended, and party rules.

Sincerely,

James M. Holly
Assistant Attorney General

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