

1982 WL 189331 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 17, 1982

**\*1 RE: Appointment of Advisory Council Members Under Education Finance Act of 1977**

The Honorable Dalton Sheppard  
House of Representatives  
420-C Blatt Building  
Columbia, South Carolina 29211

Dear Representative Sheppard.

You have requested an opinion from this office as to the authority of a school district board of trustees to appoint representatives from the community to the advisory council established pursuant to the Education Finance Act of 1977 now codified as [§ 59-20-60\(3\)\(b\), 1976 South Carolina Code](#) of Laws, as amended. The specific questions raised by you are considered below in the order presented by your letter.

1. Can a school district board of trustees, pursuant to [§ 59-20-60\(3\)\(b\)](#) appoint ‘ . . . other representatives of the community . . . ’ in place of or in addition to those ‘persons selected by the principal?’

Section 59-20-30(3)(b) provides in pertinent part:

. . . Each school board of trustees shall establish an advisory council at each school in the district composed of at least two parents, elected by the parents of the children enrolled in the school; at least two teachers, elected by the faculty; at least two students in schools with grades nine and above elected by the students; other representatives of the community and persons selected by the principal; provided, however, that the elected members of the committee shall comprise at least two-thirds majority of the membership of committee . . . ’ (Emphasis added)

This section clearly provides for the establishment of the advisory council by the school district board of trustees (board), however, there is no authority in this section for ‘representatives of the community and other persons’ to be appointed by the board. The section requires that the advisory council be composed of ‘other representatives of the community and persons selected by the principal . . . ’ The use of the conjunctive ‘and’ combined with the lack of punctuation to demonstrate otherwise, is a clear indication the committee . . . ’ ‘representatives of the community and persons’ compose a single class of representatives to be selected by the principal. While the language of the statute pertaining to advisory councils allows some discretion as to the number of representatives in each class—‘at least’ two students, and ‘at least’ two teachers—the statute is specific as to the classes of persons and how each class is to be chosen. Where the language of a statute is clear and unambiguous it must be held to mean what it plainly expresses. 2A Sutherland, Statutory Construction, § 46.01 p. 48 (1973). Therefore, it is the opinion of this office that the mandatory directive of [§ 59-20-60\(3\)\(b\)](#) demands that the representatives be selected by the principal rather than the board and that the specificity with which the statute provides for the selection of each class of representatives precludes the board from appointing representatives in addition to those selected by the principal.

**\*2** 2. Does the board have the inherent power by implication from [§ 59-20-60\(3\)\(b\)](#) to appoint advisory council members?

The language of [§ 59-20-60\(3\)\(b\)](#) gives the board the authority to establish an advisory council. The general authority because of the specificity of the statute with regards to who shall select or elect the classes of representatives does not impart to the board by implication or otherwise the power to appoint advisory council members. A statute will not be extended to include situations

by implication when the language of the statute is specific and not subject to reasonable doubt. [United States v. Rice](#), 327 U.S. 742, 90 L.Ed. 982, 66 S.Ct. 835, 2A Sutherland, Statutory Construction, § 55.03, p. 383 (1973). Therefore, it is the opinion of this office that the board does not have the power, pursuant to [§ 59-20-60\(3\)\(b\)](#) to appoint advisory council members.

I trust this information sufficiently answers your inquiries. If you have additional questions, please contact me.

Sincerely,

B. J. Willoughby  
Assistant Attorney General

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