

1982 WL 189117 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 14, 1982

\*1 Joseph S. Mendelsohn, Esquire  
Post Office Box 633  
Charleston, South Carolina 29402

Dear Joe:

I am in receipt of your recent letter concerning the power of the county election commission to designate voting places. Specifically you have inquired under what authority and what circumstances the Charleston County Election Commission could change a polling place from one location to another.

There is no State statute which expressly authorizes an election commission to change a polling place. SOUTH CAROLINA CODE OF LAWS, 1976, Section 7-7-10 specifically provides that the precincts will be "designated, fixed and established by the General Assembly." However, our Office has taken the position that the county election commission can designate a polling place if the General Assembly fails to designate the polling place.

County election commissions should only designate polling places when the legislature is not in session and either has failed to designate a polling place or some exigent circumstances requires a new polling place to be designated immediately. See 1969 Opinion of Robert Brown, copy enclosed. In the past there have been such occasions when shortly before an election, a poll burned down, persons owning the building designated as the polling place refused to allow the building to be used as a polling place, reapportionment placed the polling place outside of the precinct, the access road to the precinct washed out, etc.

Additionally you have inquired if the county election commission can designate a polling place outside of a precinct. The [South Carolina Constitution, Article II, Section 4](#) and the SOUTH CAROLINA CODE OF LAWS, 1976, Sections 7-7-910 and 7-7-930 requires each person to vote in the precinct where he lives. Voting in a precinct where a voter does not live is, therefore, prohibited by law. See 29 C.J.S. Elections § 199; 26 AM.JUR.2d Elections § 229.

Sincerely,

Treva G. Ashworth  
Senior Assistant Attorney General

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