

1980 WL 120940 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 21, 1980

\*1 Toni P. Ross

Administrative Secretary

Greenwood County Department of Education

Post Office Box 1507

Greenwood, South Carolina 29646

Dear Ms. Ross:

You have asked the opinion of this Office on whether a second, or run-off, election is necessary when four candidates receive a majority of the votes cast in an election to fill only three positions on the Board of Trustees for Greenwood School District No. 50.

According to you, elections to the Board of Trustees are governed by Act No. 450, Acts and Joint Resolutions, 1973. Section 1 of that act provides:

. . . in such election it shall be necessary that the candidates receive a majority of the votes cast in order to be elected. A second election, when necessary, shall be held . . . and shall be subject to the same provisions governing the first election, except that the candidate receiving the larger number of votes cast shall be elected. . . . [I]f there are two [or] more vacancies to be filled, there shall be twice the number of candidates as there are vacancies, who shall be those candidates receiving the greater number of votes in the first election [Emphasis Added]

Act 450 does not by its language require or authorize a second election in the event more candidates receive a majority of the votes cast than there are positions to be filled. If a second election was intended to be held in this event, it seems that the General Assembly would have provided some method for selecting which candidates would participate. The language in Act 450 emphasized above dealing with the selection of candidates for the second election is obviously not applicable to such a situation.

Our research has not revealed any authority directly dispositive of the question posed by you. However, several statutes not directly related to the election for District 50 may provide some guidance. Section 7-11-610(2),<sup>1</sup> which applies to primaries, and section 5-15-62(a)(2)<sup>2</sup> which applies to certain municipal elections, provide that if more candidates receive a majority than there are positions to be filled, those receiving the most votes are to be declared the winners. It would be reasonable to infer that the General Assembly would have intended the same method for District 50 elections.

Based on the foregoing, it is the opinion of this Office that a second or run-off, election is not required or authorized in elections to the Board of Trustees for Greenwood School District 50 when more candidates receive a majority of the votes cast than there are positions to be filled. Of the candidates receiving a majority, those having the highest vote totals should be declared the winners.

Sincerely,

James M. Holly

Assistant Attorney General

Footnotes

- 1 Code of Laws of South Carolina, 1976
- 2 Code of Laws of South Carolina, 1979 Cum. Supp.

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