

1978 S.C. Op. Atty. Gen. 70 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-44, 1978 WL 22526

Office of the Attorney General

State of South Carolina

Opinion No. 78-44

March 7, 1978

*1 Present Commission on South Carolina Higher Education must continue in office in a de facto capacity until Commissioners named in 1978 Act assume office.

Howard R. Boozer, Ph.D.

Executive Director

South Carolina Commission on Higher Education

Rutledge Building

1429 Senate Street

Columbia, South Carolina 29201

Dear Dr. Boozer:

A statute has been enacted by the 1978 General Assembly which repeals [Section 59-103-10 of the Code](#) of Laws, 1976, by substituting in lieu thereof a new composition of the present State Commission on Higher Education. The question arises as to the status of the existing Commission subsequent to the approval of the bill by the Governor and prior to the assumption of office of a new commission selected pursuant to the provisions of the 1978 Act.

Based on the authorities set forth below, it is my opinion that the present Commissioners must continue in office in a de facto capacity until the assumption of office by the new commissioners, either in their entirety or by a majority thereof, and that the acts of the present Commissioners in such a de facto capacity are valid in all respects. Until a majority of the new commissioners are appointed, they cannot undertake their duties under the law, and in the interim and to avoid an interregnums of governmental functions, the continuance in office of the present Commissioners is required.

Very truly yours,

Daniel R. McLeod

Attorney General

A majority of the newly constituted Commission on Higher Education may begin a study at once or it may await the qualification of all of its new members.

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