

1974 WL 27670 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 19, 1974

\*1 Mr. James H. Quackenbush, Jr.  
Messrs. Timberlake & Quackenbush  
Attorneys at Law  
Barringer Building  
Columbia, South Carolina

Dear Mr. Quackenbush:

You have requested the opinion of this Office with respect to the procedure to be followed in the appeal of a matter to a Municipal Party Executive Committee. Specifically, a protest or contest has been lodged with and heard by that Committee, and a petition for a rehearing of the matter has been requested by the protestant.

Section 47-57.3 of the Code of Laws, 1962, as amended, provides the procedures for such appeals. There is no provision for a rehearing provided in that statute and, in my opinion, such a rehearing cannot be granted without involving disruption of appellate procedures that may be desired to be undertaken by the protestant to the Board of State Canvassers of Municipal Primaries. Such an appeal must be made within five days following the date on which the decision of the Municipal Committee is declared. Therefore, the protestant is required to follow the time limitations set forth in further appeals if such are made, and unless the declaration of the Municipal Committee is stayed or set aside by it (for which there is no specific authority), the five-day period for the initiation for further appellate procedures would thereby be disrupted.

In the absence of specific authority for a rehearing, it is my opinion that this procedure should not be undertaken. If the Committee, in its discretion, determines to grant a rehearing at the risk of complicating factors referred to above, it should only do so after staying its decision previously reached. For the reasons stated, I do not suggest that this latter procedure be followed.

Very truly yours,

Daniel R. McLeod  
Attorney General

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