

1973 S.C. Op. Atty. Gen. 198 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3557, 1973 WL 21014

Office of the Attorney General

State of South Carolina

Opinion No. 3557

July 2, 1973

***1 The presence and participation in the deliberations of the Board of Education for Marlboro County by four of the seven members thereof whose terms have expired, but whose successors have not been appointed, does not invalidate the proceedings of the Board of Education.**

Member

House of Representatives

Bennettsville, South Carolina

Your letter of June 28, 1973, inquiring if the presence and participation in the deliberations of the Board of Education for Marlboro County by four of the seven members thereof whose terms have expired, but whose successors have not been appointed, will affect the validity of the proceedings of the Board of Education.

In my opinion, the answer to this question is clearly that the holdover members are de facto officers and that their acts and doings are valid. It is my opinion that they not only may continue but, in fact, they are required to continue until their successors have been appointed and qualified. See *Rogers v. Coleman*, 245 S. C. 32, 138 S. E. 2d 415. The fact that the statute does not, by its terms, provide that the members shall continue to serve over after their terms and until their successors are appointed and qualified does not affect the question. Under the cases of *Bradford v. Byrnes*, 221 S. C. 255, 70 S. E. 2d 228, and *Heyward v. Long*, 178 S. C. 351, 183 S. E. 145, they hold over irrespective of whether or not the statute so provides. Otherwise, an interregnum in the governmental process would ensue.

I therefore advise that, in my opinion, the members of the Board whose terms have expired must continue to hold over and perform the duties of their offices and that their acts and doings in such capacity are valid and proper.

Daniel R. McLeod

Attorney General

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