

1973 S.C. Op. Atty. Gen. 297 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3624, 1973 WL 21078

Office of the Attorney General

State of South Carolina

Opinion No. 3624

September 17, 1973

***1** One may not serve as a trustee of Saluda School District No. 1 and as a member of the Saluda Nursing Home Board of Directors.

Where a member of the Board of Trustees for Saluda School District No. 1 resigns, the vacancy thereby created should be filled by appointment of the Governor.

One who is a resident of Voting Area No. 3 of the Saluda School District No. 1 cannot serve as Voting Area No. 4's resident member of that District's Board of Trustees.

TO: Superintendent
Saluda School District No. 1

We have received from you requests for opinions concerning certain problems confronting your school district.

First of all, you desire to know whether Dr. Robert L. Sawyer, a trustee of Saluda School District No. 1, may also serve on the Board of Directors of the Saluda Nursing Home. Clearly, a trustee of a school board is an 'officer' within the meaning of article II, Section 2 of the State Constitution; see, e.g., Opinion No. 3065, 1970 Op. Atty. Gen. 362; and, in our judgment, so is a director of a board established by statute to administer a nursing home. See, 54 STAT. Act. No. 1391 at 3677 (1966). Accordingly, therefore, Dr. Sawyer would be prohibited by the aforementioned constitutional provisions from holding both offices at the same time. See, e.g., Opinion No. 3070, 1971 Op. Atty. Gen. 9.

We understand that because of a recent opinion from this office [see, Opinion No. ___, 1973 Op. Atty. Gen. ___, August 27, 1973], one of the trustees of District No. 1 has resigned and there is, therefore, a vacancy on the board. You desire to know how the vacancy is to be filled. The 1968 statute which amended the Code sections relating to District No. 1 clearly provides that 'vacancies on the board shall be filled by appointment of the Governor upon recommendation of the resident members of the county legislative delegation for the unexpired term.' 55 STAT. Act No. 1139 § 1 at 642 (1968).

Finally, you and Mr. George C. Wheeler, a trustee of the district, inquire as to whether or not he is properly a member thereof. The 1968 statute provides in part:

All elected board members shall be residents of the areas they represent, which areas are hereby designated as follows:

...

(4) Voting Area No. 4 . . . shall include that portion of the county between the eastern boundary of State Highway No. 3) and State Highway No. 702 north of the town of Saluda and the western boundary of State Highway No. 19 going south. Id. at 2641.

Mr. Wheeler, we are told, resides almost within the intersection of Highway Nos. 39 and 702. His home is northeast of Highway No. 702 and southwest of Highway No. 39. The former highway begins, we understand, where it intersects with Highway No. 39, just north of the town of Saluda, after careful examination of a county map, we have concluded that Voting Area No. 4 does not include the area lying between Highway Nos. 39 and 702. It includes only that area between the eastern boundary of

Highway No. 702 and the eastern boundary of Highway No. 39, to the point where it intersects with Highway No. 702, and the western boundary of Highway No. 19.

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Deputy Attorney General

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