

1980 WL 120792 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 25, 1980

*1 Dr. Salvatore A. Fede
Director
Wil Lou Gray Opportunity School
West Campus Road
West Columbia, South Carolina 29169

Dear Dr. Fede:

You have requested the opinion of this office as to the length of the term of the present chairman of the Opportunity School. Under a regulation adopted by the school's board of trustees, each even numbered year at its fall meeting, the board is to elect a chairman who will serve for a two year term or until his successor is elected.¹ The board failed to have such an election in the fall of 1978 and the previously elected chairman continued in office. A new chairman was elected in January, 1979, and he is currently holding office.

The following rule is applicable here:

Since the term of an office is distinct from the tenure of an officer, the 'term of office' is not affected by the holding over of an incumbent beyond the expiration of the term for which he was appointed; and a holding over does not change the length of the term, but merely shortens the term of his successor [Emphasis added]. [Heyward v. Long, 178 S.C. 351, 183 S.E. 145, 156 \(1935\)](#); see 63 Am. Jur. 2d, [Public Officers and Employees](#), §155.

Here, the term of the office of chairman runs from the fall of 1978 to the fall of 1980. The current chairman can only hold office for the unexpired remainder of that term; however, under your regulation, the current chairman may holdover until he or a successor is elected for the 1980-1982 term.

If you have further questions, please let me know.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

Footnotes

¹ [Section 59-51-30 of the Code of Laws of South Carolina \(1976\)](#), provides for the election of the school's board of trustees, but it does not provide for the election of a chairman.

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