

1979 WL 43119 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 17, 1979

*1 Doyet A. Early, III, Esquire
Bamberg County Attorney
P. O. Box 235
Bamberg, SC 29003

Dear Mr. Early:

You have requested an opinion of this Office as to whether or not candidates for the Bamberg County Board of Education should have filed petitions to offer for office or if they could have filed for office without a petition.

In 1976, Bamberg County voted to change the method of election of the members of the County Board of Education from appointive to elective. In 1977, an Act bearing ratification number 170 was passed which stated [f]or the first election of members to fill vacancies on the County Board of Education for Bamberg County held after the effective date of this act, any person wishing to offer as a candidate may file directly with the Commissioners of Election for Bamberg County at such times as the Commissioners of Election shall determine, notwithstanding any other provision of law.

In 1979, an Act bearing ratification number 90 was enacted to reconstitute the Bamberg County Board of Education. The Act stated in part that [t]he elections shall be nonpartisan and shall be conducted by the Bamberg County Election Commission who shall provide managers, voting booths and necessary ballots. (Emphasis added).

In county elections, a nonpartisan election would mean that the candidates would not be elected by partisan methods, *i.e.*, by a primary or a convention. South Carolina Code of Laws, 1976, Section 7-13-350 authorizes only three methods for a candidate to be placed on the election ballot: primary, convention or petition. Therefore, a nonpartisan election in a county would leave only the third method for being placed on the ballot—petition.

The 1977 and 1979 Acts must be read *in pari materia*. [Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 \(1970\)](#). The 1979 Act clearly provides for nonpartisan elections which would require a petition nomination. The 1977 Act establishes where the petitions should be filed. The Act states that any person wishing to offer as a candidate ‘. . . may file directly with the Commissioners of Election for Bamberg County . . .’ The 1977 Act does not say that a candidate can file without a petition. It does provide the place for filing.

Therefore, a candidate for the Bamberg County Board of Education should have filed a nominating petition with the Bamberg County Commissioners of Election.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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