

1978 WL 34841 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
April 7, 1978

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Attorney at Law
600 Barringer Building
1336 Main Street
Columbia, SC 29201

Dear Mr. Manning:

Mr. McLeod has referred your recent letter to me for reply. You have stated that the Republican Party in Richland County has had five (5) persons file for nomination in the Republican Party primary for five (5) county council seats. You have further stated that one of the candidates may withdraw. You have inquired if the party's county executive committee may reopen the filing period if one of the five candidates should withdraw.

[Section 7-13-40 of the South Carolina Code](#) of Laws of 1976, states in part that [i]f, after the closing of the time for filing pledges, there be not more than two candidates for any one office and one or more of such candidates dies or withdraws, the State or county committee, as the case may be, may, in its discretion afford opportunity for the entry of other candidates for the office involved; provided, that for the office of State Senator, the discretion shall be exercised by the State committee.

This Office has previously interpreted this statute to mean that after a candidate's withdrawal, if there are less than two candidates vying for the party's nomination for any one seat, the filing can be reopened. 1969-70 Ops. Att'y Gen., No. 2860, p. 96. In the present situation, the county council will be elected at large and five persons are offering for five offices. If one candidate should withdraw, there would be less candidates than the number of offices to be filled. Therefore, if one of the five Republican candidates for county council withdraws, the filing can be reopened.

The rules of the Republican Party would control the procedures that would be followed for reopening the filing for county council.

Very truly yours,

Treva G. Ashworth
Assistant Attorney General

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