

1978 WL 34981 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 14, 1978

*1 Howard R. Boozer, Ph.D.
Executive Director
South Carolina Commission on Higher Education
1429 Senate Street
Columbia, South Carolina 29201

Dear Dr. Boozer:

You have requested my opinion as to the effective date of the moratorium on expansion of curricula, staff and faculties higher learning mandated by higher learning mandated by Act 410 of the 1978 Acts and Joint Resolutions of South Carolina.

Act 410 reorganizes the State Commission on Higher Education and redefines its duties. The act provides: The terms of the present members of the Commission on Higher Education shall terminate on the effective date of this act. (Section 3) . . . the State Commission on Higher Education (Commission), immediately upon its reorganization as directed by the amendments, as contained in this act . . . shall make a complete and thorough study of all public institutions of higher learning . . . and upon completion write a master plan of public higher education . . . While the Commission is conducting its study and until such time as the master plan is adopted, no public institution of higher learning shall expand its curricula, administrative staff or faculty nor shall there be further construction of physical plants other than construction already approved by the General Assembly or State Board of Technical and Comprehensive Education unless such expansion or construction is approved by the Commission and the Budget and Control Board or either body of the General Assembly to satisfy pressing local needs . . .

The act mandates that the Commission make a study of all public institutions of higher learning and, upon completion, write a master plan of public higher education of South Carolina. The legislature was seeking to maximize the usefulness and efficiency of present institutions and schools of this State and to coordinate their growth in meeting the anticipated educational needs of the public. This plan is consistent with the responsibilities placed upon the Commission by prior legislation.

As stated in the act, the Commission, 'immediately upon its reorganization,' shall make a complete study and write a master plan of public higher education. While the Commission is conducting this study and until such time as the master plan is adopted, a moratorium is imposed upon expansion of curricula, staff, faculty and construction of physical plants. To meet pressing local needs, exception from such moratorium may be made upon approval of the Commission and the Budget and Control Board, or either body of the General Assembly.

The inquiry submitted by you relates to the beginning date of the moratorium and, in the opinion of this Office, such moratorium will begin once the reorganized Commission, as provided in the 1978 Act, begins its study of all public institutions of higher learning as a prelude to the promulgation of a master plan of public higher education. That study must begin 'immediately' upon the reorganization of the Commission. The reorganization of the Commission will take place upon the appointment and qualification of the new Commissioners as provided under the 1978 Act. While a majority of the new Commissioners will authorize it to proceed, that majority may await the qualification of all of the new Commissioners before beginning its study. In accordance with the requirement that the reorganized Commission

begin its study 'immediately,' the new Commission should comply with the mandate of the law and begin its study at the earliest practicable date.

*2 Pending the beginning date of the moratorium, as set forth above, the present existing de facto members of the Commission may exercise the authority set forth in existing law, with the exception of its inability to commence a study leading to the adoption of a master plan of public higher education.

Very truly yours,

Daniel R. McLeod
Attorney General

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