

1978 WL 34989 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 21, 1978

*1 Mr. Wayne Clary
Member of Board of Trustees
Cherokee County School District #1
601 East Jeffries Street
Gaffney, SC 29340

Dear Mr. Clary:

You have requested the opinion of this Office concerning whether registered voters can force the district school board to put a referendum in the next school board election and whether a school district has the authority to make a curriculum mandatory.

All matters pertaining to education are entrusted to the General Assembly under [Article XI, Section 3 of the South Carolina Constitution](#). The State Superintendent of Education is the chief administrative officer of the public education system under [Article XI, Section 1 of the Constitution](#). As a general rule, the Department of Education and the various school districts have only such powers as the General Assembly may delegate to them.

There is no provision under current law that would allow voters to force a referendum in regard to a policy adopted by your school board. The board may, however, hold public hearings concerning policies of the board. Absent a statutory provision for a forced referendum in your case, such a referendum would be unlawful and of no legal affect upon the board of trustees.

Whether your board has the power to make a certain curriculum mandatory is a question too general to be encompassed in this opinion. The General Assembly has required that certain courses be offered and taken by each student enrolled in the public schools of this State. The State Department of Education, by appropriate regulations, has required that a certain number of courses in a given area be offered by the respective schools. In order to receive a certificate of graduation, an individual must take the required number of units in each given area.

The course requirements differ as to each grade level and there are exceptions to each general rule. Under the broad powers given the school trustees under § 59-19-90 et. seq., it is the opinion of this Office that each school board has the authority to require a certain course be taken (a mandatory rather than elective course), assuming such a requirement does not violate State law, regulations passed pursuant to State law, or constitutional provisions relating thereto. I suggest that you contact the State Department of Education for information concerning your specific course requirement. If you have any further questions concerning this matter, please do not hesitate to contact me.

With warmest personal regards, I remain,
Sincerely,

Frank H. DuRant
Assistant Attorney General

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