

1978 WL 35271 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 18, 1978

***1 Re: Opinion Concerning Saluda County Members on the Area Advisory Council**

Honorable Edith C. Padget
Clerk of Court
for Saluda County
County Courthouse
Saluda, SC 29138

Dear Ms. Padget:

You have requested an opinion of this Office concerning the manner of selection and appropriate terms of the Saluda County members on the Area Advisory Council to the Aiken County Board of Education. The Area Advisory Councils in Aiken County were created by Act No. 461, Acts and Joint Resolutions of South Carolina, 1967, amending § 21-1045, Code of Laws of South Carolina, 1962. Act No. 461 of 1967 eliminated Area Boards of Education in Aiken County and replaced them with a seven member Area Advisory Council in each area. Act No. 461 of 1967 declared that the Ridge Spring School District No. 2 Advisory Board of Education would be superseded by an Area Advisory Council in Administrative Area No. 1. Apparently, the Administrative Areas have been revised and the Saluda County members are now part of the Area Advisory Council for Administrative Area No. 4. Act No. 267, Acts and Joint Resolutions of South Carolina, 1977. The term of office was to be three years, and the Area Advisory Council for Administrative Area No. 1 was to have two members from the former Ridge Spring School District No. 2 in Saluda County. Act No. 461 of 1967 further provided that the members from Saluda County were to be appointed as provided in § 21-3954, but were to serve three year instead of four year terms. Section 21-3954, Code of Laws of South Carolina, 1962, expressly provided that members of the Ridge Spring School District No. 2 Advisory Board of Education were to be appointed. The statute further provides that candidates shall offer for election in the primary election as provided in § 21-3953; however, the results of said election were to be advisory only. The manner of selection of Advisory Council Members is the same as provided for appointment of the Board of Trustees of Saluda County in Chapter 58, Title 21 of the South Carolina Code of Laws, 1962, as amended. Therefore, it is clear that members of the Area Advisory Council were and are to be appointed rather than elected, in that the manner of selection has not been amended.

As to the proper terms of office for members of the Area Advisory Council from Saluda County, the initial date for commencement of the aforementioned three year terms was established in Act No. 461 of 1967. Act No. 461 of 1967 states in pertinent part:

In Administrative Area No. 1 two members of the Area Advisory Council shall be residents of that portion of Saluda County formally designated as Ridge Spring School District No. 2 of Saluda and shall be appointed as provided in § 21-3954; provided, that the length of the term shall be three years rather than four and staggered terms are set as provided elsewhere in this or other acts.

Section 21-3954 provided that the members of the former Advisory Board of Education of Ridge Spring School District No. 2 were to be appointed for four years with the terms of the first appointed members terminating on June 30, 1964; moreover, § 21-3954 stated, 'Thereafter their terms shall terminate on June 30 of the year in which the term expires.' Act No. 461 of 1967 created the Area Advisory Councils and specified that the Act was to be effective on March 1, 1968. Reckoning from the effective date of Act No. 461 of 1967, the current term of office in three year intervals would run

from July 1, 1976 until June 30, 1979. I am informed that the last two members of the Area Advisory Council from Saluda County resigned on some unspecified date in 1976 and on June 13, 1978, respectively. Thus, it would appear appropriate that two members of the Area Advisory Council from Saluda County be appointed to serve the remainder of the current terms until June 30, 1979, and thereafter, two members should be appointed for a three year term to expire on June 30 of the third year.

*2 Please call upon me if I can be of further service to you in this matter.

With kindest regards,

Sincerely,

Paul S. League
Assistant Attorney General

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