

The State of South Carolina



Attorney General
DANIEL R. McLEOD

Attorney General
Columbia

March 7, 1978

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

Dear Dr. Boozer:

A statute has been enacted by the 1977³ General Assembly which repeals Section 59-103-10 of the Code of Laws, 1976, by substituting in lieu thereof a new composition of the present State Commission on Higher Education. The question arises as to the status of the existing Commission subsequent to the approval of the bill by the Governor and prior to the assumption of office of a new commission selected pursuant to the provisions of the 1977³ Act.

Based on the authorities set forth below, it is my opinion that the present Commissioners must continue in office in a de facto capacity until the assumption of office by the new commissioners, either in their entirety or by a majority thereof, and that the acts of the present Commissioners in such a de facto capacity are valid in all respects. Until a majority of the new commissioners are appointed, they cannot undertake their duties under the law, and in the interim and to avoid an interregnum of governmental functions, the continuance in office of the present Commissioners is required.

Very truly yours,

Daniel R. McLeod
Daniel R. McLeod
Attorney General

DRM/hm

(See over)

Howard R. Boozer, Ph.D., Executive Director
Page 2
March 7, 1978

Rogers v. Coleman, 245 S.C. 32, 138 S.E.2d 415
Bradford v. Byrnes, 221 S.C. 255, 70 S.E.2d 228
State ex rel. McLeod v. West, 249 S.C. 243, 153 S.E.2d 892