

From: Schimsa, Rebecca <RebeccaSchimsa@gov.sc.gov>
To: Philpott, Katie <KatiePhilpott@gov.sc.gov>
Pisarik, Holly <HollyPisarik@gov.sc.gov>
Date: 2/11/2016 5:14:31 PM
Subject: RE: CHE Question

Katie – My email wasn't referencing Hofferth. I will explain to Holly in person.

From: Philpott, Katie
Sent: Thursday, February 11, 2016 2:43 PM
To: Pisarik, Holly; Schimsa, Rebecca
Subject: RE: CHE Question

Tim was appointed to the Chairman seat referred to in Section 59-103-10 (4). He did fill a vacancy due to the resignation of John Finan. He does not represent an institution. He was appointed in an interim capacity on September 15, 2015 for the term 7/1/2012 – 7/1/2016. He was sent to the Senate for appointment (term 7/1/2012 – 7/1/2016) and consecutive reappointment (7/1/2016 – 7/1/2012).

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From: Pisarik, Holly
Sent: Thursday, February 11, 2016 2:39 PM
To: Philpott, Katie; Schimsa, Rebecca
Subject: RE: CHE Question

Who does Tim represent? I'm assuming he was appointed to fill a vacancy – whose vacancy? From what institution? When was he appointed?

From: Philpott, Katie
Sent: Thursday, February 11, 2016 2:37 PM
To: Pisarik, Holly; Schimsa, Rebecca
Subject: RE: CHE Question

They say that it is another institution's turn to be represented in these seats (even though our appointees have only served a partial term).

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From: Pisarik, Holly
Sent: Thursday, February 11, 2016 2:35 PM
To: Philpott, Katie; Schimsa, Rebecca
Subject: RE: CHE Question

What is the specific issue?

From: Philpott, Katie
Sent: Thursday, February 11, 2016 2:34 PM
To: Schimsa, Rebecca; Pisarik, Holly
Subject: RE: CHE Question

Just to specify, they are not in disagreement with our position on reappointing Tim Hofferth as chairman, they are disagreeing in relation to the seats specified in 59-103-10 (2) on the grounds that it states "These members must be appointed to serve terms of two years with terms to rotate among the institutions."

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From: Schimsa, Rebecca
Sent: Thursday, February 11, 2016 2:29 PM
To: Pisarik, Holly
Cc: Philpott, Katie
Subject: CHE Question

Holly – Please review. The Senate is in disagreement with my position, although I do not know if they have done the AG research that's included below. Once we reach a conclusion on this, we will need to reach out to the Senate.

Section 59-103-10(2) requires that the Governor's appointees to CHE must be appointed to serve terms of two years with terms to rotate among the institutions.

Issue: Whether the Governor's appointees who were appointed in 2015 to fill the remainder of a holdover term from 2014-2016 term can be appointed to fill a full term from 2016-2018.

Answer: Yes, because serving a partial term does not qualify as a full-term.

Explanation: Multiple AG Opinions have consistently taken the position that filling an unexpired term (or filling a vacancy; or serving a shortened term) does not constitute a "term" or a "full term":

- January 28, 1980 – Opinion for Beverly T. Craven: Prior tenure in office does not render one ineligible for appointment to another term, distinguishing "term of office" (fixed and definite period of time) and "tenure of office" (generally the time period and manner in which an office is held): an individual may occupy an office without serving for a term of office within the meaning of the statute, which may occur when one officer fills the unexpired term of another.
- August 30, 1982 – Opinion for Richard Riley: Serving a partial or unexpired term does not count as serving a full term.
- August 13, 1981 – Opinion for Richard Riley: When determining whether an appointee has served two consecutive terms, a partially served term is not to be considered a full term.
- April 11, 1984 – Opinion for Edward K. Pritchard, Jr.: Filling an unexpired term does not constitute a term.
- September 1, 1988 – Opinion for Timothy E. Meacham: When an individual has served for a shortened or unexpired term, as when he is filling a vacancy, it does not constitute a "term" or "full term."