

COMMONWEALTH OF VIRGINIA  
OFFICE OF  
THE ATTORNEY GENERAL  
RICHMOND

April 30, 1926.

Hon. Wilbur C. Hall,  
Attorney at Law,  
Leesburg, Virginia.

My dear Mr. Hall:

Acknowledgment is made of your letter of April 28, 1926, in which you say in part:

"I want to know if the superintendent can compel the chairman of the county school board to call a meeting. Upon organization of the county school board of Loudoun county, a resolution was adopted that special meetings could be called on request of two members."

County school boards as they now exist were provided for by Chapter 423 of the Acts of 1922. Section 5 of that act, after providing for the organization meeting and the selection of a chairman and secretary, provides:

"The board shall meet at such other times as may be prescribed by law, or as necessity may require. If the board consist of an even number, the division superintendent shall have a vote on any question in the case of a tie vote."

Section 3 of the same act provides:

"The county school board as above constituted is hereby vested with all the powers and charged with all the duties and obligations hitherto vested in, or conferred or imposed upon, the several district school boards of the particular county as well as the county school board of such county as now constituted, except as herein provided and except in so far as such powers and duties may be inconsistent with the functioning of the county school board as the unit of operation of the public free school system in the county."



Section 633 of the Code of Virginia, 1919, provides as follows with reference to district boards:

"Any member may call a meeting by giving due notice to the other two members. Any two members shall constitute a quorum; a concurrence of a majority of the board in a duly assembled meeting shall be required to constitute a valid act."

There can be no question but that this law is still in force and effect by virtue of the provisions of section 3 of Chapter 423 of the Acts of 1922.

With reference to the old county school boards as constituted at the time Chapter 423 of the Acts of 1922 was enacted, section 640 of the Code of Virginia, 1919, made the division superintendent ex-officio president of the county school board.

Section 641 of the Code of Virginia, 1919, provides as follows:

"It shall be the duty of the president to call meetings of the board whenever, in his judgment, such meetings are needed, and also when requested to do so by two chairmen of the district boards of the county."

Section 643 of the Code of Virginia, 1919, required the county school board to hold a regular annual meeting in the month of July, the date thereof to be fixed by the board itself, or, if it failed to do so, by the president.

It would seem from the provisions of section 3 of Chapter 423 of the Acts of 1922 that all the above sections are in force, except so far as the powers and duties conferred or imposed therein are "inconsistent with the functioning of the county school board as the unit of operation of the public free school system in the county."

In view of the fact that section 5 of Chapter 423 of the Acts of 1922 provides that the county school board at its first meeting shall select one of their number chairman, I have had some hesitation in holding that section 640 of the Code of Virginia, 1919, which makes the division superintendent ex-officio president of the county school board, is still in force, but upon



reflection and in view of the last sentence of section 5 of Chapter 423 of the Acts of 1922, which provides that in a case where the board consists of an even number the division superintendent shall have a vote on any question in the case of a tie vote, and also in view of the fact that repeals by implication are never favored, I am of the opinion that section 640 of the Code is still in force and effect, so far as it makes the division superintendent president of the county school board.

Therefore, it is my opinion that the division superintendent can call a meeting of the county school board as provided for in section 641 of the Code of Virginia, 1919.

Trusting that this gives you the desired information,

I am

Yours very truly,

*J. A. Saunders,*

Attorney General.

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