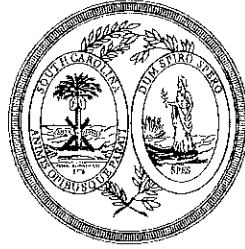


State of South Carolina
Office of the Secretary of State
The Honorable Mark Hammond

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March 8, 2019

South Carolina House of Representatives
Legislative Oversight Committee
Attn: The Honorable Gary E. Clary, Subcommittee Chair
P.O. Box 11867
Columbia, SC 29211

Dear Representative Clary,

We have received your letter dated March 6, 2019 regarding the Secretary of State's involvement with state agency boards and commissions. The answers to your questions are as follows:

1. *Is there any law that requires and/or does the Secretary of State's Office confirm whether individuals nominated, or appointed, to the SCAC meet the statutory qualifications for membership in S.C. Code Section 13-1-1090?*

To my knowledge, there is not a law that requires the Secretary of State's Office to confirm that individuals appointed or elected to the South Carolina Aeronautics Commission meet the statutory requirements for membership found in S.C. Code of Laws Section 13-1-1090.

Furthermore, Section 13-1-1040 states that upon election of a commissioner by a congressional district's legislative delegation, "the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person after he has taken the usual oath of office, a certificate of election as commissioner [emphasis added]." Thus, the Secretary of State is required to issue the certificate upon receipt of the name, and does not have the discretion to determine whether the legislative delegation properly vetted the commissioner that they elected.

2. *Is there any law that requires and/or does the Secretary of State's Office confirm whether individuals nominated, or appointed, to any state entity's board or commission meet the statutory qualifications for membership on the board or commission? If so, please list the applicable state entity(ies).*

To my knowledge, there is not a law that requires the Secretary of State's Office to confirm that individuals appointed or elected to state boards and commissions meet the statutory requirements for membership.

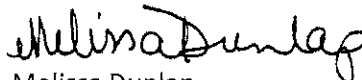
3. *Please briefly explain the Secretary of State's statutory responsibilities as it relates to state boards and commissions.*

The duties of the Secretary of State's Office in monitoring the membership of state boards and commissions are outlined in S.C. Code of Laws Section 1-5-40. The statute provides that the Secretary "is designated as the state office whose responsibility it is to monitor positions on the state boards and commissions specified in this subsection and any elected or appointed state boards and commissions established after the effective date of this section." This duty includes keeping a public record available for inspection of the compilation of state boards and commissions and "information about the memberships received from state boards and commissions pursuant to Section 1-1-1310 so that members of the General Assembly and interested citizens may be informed of the current composition of these boards and commissions." To fulfill this duty, the Secretary of State's Office provides a searchable database on its website so that the public may view the membership of a state board or commission.

Pursuant to S.C. Code of Laws Section 1-1-1310, it is the duty of state boards and commissions to send written notification of appointments, elections, resignations, and vacancies to the Secretary of State with the information required by statute, including the qualifications for membership on the board or commission. In practice, appointment information is often received from the appointing authority rather than the board or commission. As indicated in S.C. Code of Laws Section 1-5-40(B), the Secretary of State's Office relies upon the information provided by the appointing authorities, boards, and commissions in providing membership information to the public.

I hope this information is helpful to you. If you have any questions or need anything further, you may reach me at 803-734-2157 or by email at mdunlap@sos.sc.gov.

Sincerely,



Melissa Dunlap
Deputy Secretary of State & Chief Legal Counsel
Office of the Secretary of State

cc: The Honorable Laurie Slade Funderburk
The Honorable Wm. Weston J. Newton
The Honorable Chandra E. Dillard