Superintendent, term of office

Number: INFORMAL

Date: November 12, 2008

Mr. Stephen W. Johnson
Lake County School Board Attorney
Post Office Box 491357
Leesburg, Florida 34749-1357

Dear Mr. Johnson:

The Office of Attorney General Bill McCollum has received your letter requesting this office's opinion regarding the term of the current elected superintendent of schools, the Honorable Anna Cowin.

You refer to section 1001.46, Florida Statutes, which states that the district school superintendent shall be elected for a term of 4 years or until the election or appointment and qualification of his or her successor. Section 100.041(3)(a), Florida Statutes, sets forth when the four-year term begins, stating that "[t]he term of office of a school board member and of a superintendent of schools shall begin on the second Tuesday following the general election in which such member or superintendent is elected."

You have advised this office that the Division of Elections in the Department of State has issued an opinion on this matter based upon its interpretation of section 100.041(3)(a), Florida Statutes. See section 106.23(2), Florida Statutes, relating to the authority of the division to issue opinions relating to the elections code. As noted in this office's statement of policy, when an opinion request is received on a question falling within the statutory jurisdiction of some other state agency, this office will normally transfer the request to that agency or advise the requesting party to contact the other agency. Inasmuch as the division has already commented on this matter, it would be inappropriate for this office at this time to comment on this issue.

In an effort to be of some assistance, I am enclosing a copy of Attorney General Opinion 72-94 (issued prior to the division's authority to render opinions in section 106.23), which Mr. Holland referred to in his response to Superintendent Cowin. The opinion states that the terms of office of district school board members elected to four-year terms in the general elections held in November of 1968 and 1970 will expire on the Tuesday two weeks following the day of the general elections to be held in 1972 and 1974, respectively. Also enclosed is an informal opinion to Mr. Marshall E. Wood, Attorney for the School Board of Nassau County which was considering making the school superintendent an appointive position and inquired about the term of the then current elected superintendent. This office referred Mr. Wood to the Division of Elections for resolution of this issue.

If the school board is concerned about the validity of the division's opinion, it may wish to consider seeking a declaratory judgment regarding its responsibilities.

Thank you for contacting the Attorney General’s Office.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/t

Enclosure: Op. Att'y Gen. Fla. 72-94 (1972); Inf. Op. to Mr. Marshall E. Wood, dated April 11, 1996