



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

September 7, 2010

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

The Honorable Terry G. Kilgore
Member, House of Delegates
Post Office Box 669
Gate City, Virginia 24251

Dear Delegate Kilgore:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether the presence of a vacancy on the school board reduces the number of school board members necessary to establish a quorum.

Response

It is my opinion that because the school board consists of those persons who are “duly appointed or elected,” a vacancy reduces the number of persons who are duly appointed or elected and, therefore, reduces the number of persons necessary to establish a quorum.

Background

You relate that a school board is composed of eight members. You further note that there is a current vacancy on the school board.

Applicable Law and Discussion

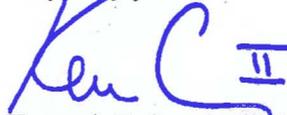
Section 22.1-71 specifies that “the duly appointed or elected members shall constitute the school board.” A school board, therefore, consists of not the total maximum membership of the Board, but rather those persons who have been duly appointed or elected. Section 22.1-73 provides that “[a]t any meeting of a school board a majority of such board shall constitute a quorum.” The term “such board” entails, by definition, those who are “duly appointed or elected.” At present, seven board members are “duly appointed or elected” and these members compose the school board. Therefore, I conclude that, in this circumstance, due to the definition of “school board” found in § 22.1-71, four members constitute a quorum.

Conclusion

Accordingly, it is my opinion that because the school board consists of those persons who are "duly appointed or elected," a vacancy reduces the number of persons who are duly appointed or elected and, therefore, reduces the number of persons necessary to establish a quorum.

With warmest regards, I am

Very truly yours,

A handwritten signature in blue ink that reads "Ken C II". The signature is stylized, with "Ken" written in a cursive-like font and "C II" in a more blocky, capital letter style.

Kenneth T. Cuccinelli, II
Attorney General