

MUNICIPAL HOME RULE LAW, Article 4, § 32(2).

An agreement between an officeholder and a county to establish a term different from the term fixed in the county charter has no legal effect.

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County of Sullivan
County Government Center
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Informal Opinion
No. 95-37

Dear Mr. Oppenheim:

You ask whether a municipality and an officeholder can agree to modify the term of office of the officeholder which is established by a statute or a charter. In a telephone conversation, you explained that your concern is a county charter establishing the term of the office.

County charters, in accordance with provisions of State law, established the structure of county government and the manner in which the county is to function. Municipal Home Rule Law, Article 4. A charter law is a local law which establishes, amends, or repeals a county charter. Id., § 32(2).

In our view, where the term of an officeholder is fixed by a charter law, the county and the officeholder may not agree to establish a different term. Matter of Sullivan v Taylor, 279 NY 364 (1939). Nor may the county unilaterally establish a term that is inconsistent with the term provided by charter law. 1988 Op Atty Gen (Inf) 87. The establishment of a different term by the municipality or through agreement of the officeholder and the municipality has no effect on the term established by law. Id.; Sullivan, supra.

We conclude that an agreement between an officeholder and a county to establish a term of office different from the term fixed in the county charter has no legal effect.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE
Assistant Attorney General
in Charge of Opinions