

OPINION NO. 95-030**Syllabus:**

1. A district advisory council, established pursuant to R.C. 3709.03, has inherent authority to call special meetings of the council by acting through the concurrence of a majority of its members with respect to a particular meeting, or by promulgating a procedural rule authorizing specified officers or members of the council to call special meetings; the board of health of a general health district and the state director of health, as expressly provided in R.C. 3709.03, are the only other public authorities with power to call a special meeting of the district advisory council.
2. A district advisory council of a general health district has no authority to make or participate in personnel decisions of a general health district, except for the power to make nonbinding recommendations pursuant to R.C. 3709.03(A), and the power to appoint members of the board of health of the general health district as provided in R.C. 3709.02(D), R.C. 3709.03, and R.C. 3709.35.
3. The authority to make program and policy decisions for a general health district is vested in the board of health established pursuant to R.C. 3709.02; a district advisory council established pursuant to R.C. 3709.03 has no authority to require the board of health to adopt or conform to a long range plan recommended by the district advisory council.

To: C. Keith Plummer, Guernsey County Prosecuting Attorney, Cambridge, Ohio
By: Betty D. Montgomery, Attorney General, September 26, 1995

You have requested an opinion regarding the powers of the district advisory council to the Cambridge-Guernsey County Health Department, which is a combined general health district.¹ Specifically you ask:

1. Whether any party other than the Board of Health or the Director [of Health] has authority to call a special meeting of the District Advisory Council?
2. Whether the District Advisory Council has powers other than those specifically mentioned [in statute,] such as personnel decisions or long range planning of the Health Department?

Before addressing these questions directly, it is helpful to review the statutory scheme set out in R.C. Chapter 3709, as it pertains to the organization and governance of general health districts.

General Health Districts

Pursuant to R.C. 3709.01, each city in the state constitutes a city health district, and the townships and villages in each county constitute a general health district. *Id.* R.C. 3709.01 additionally authorizes the voluntary combination of a general health district with city or other general health districts in the manner provided in R.C. 3709.07, R.C. 3709.071, or R.C. 3709.10. The resulting combined districts are also designated as general health districts. *See* R.C. 3709.07 (authorizing the union of a general health district with one or more city health districts, and stating that "[t]he combined district shall constitute a general health district"); R.C. 3709.071 (providing for an initiative petition for combining a general health district with one or more city health districts and resolution of the issue by popular vote on "the union of such districts into a single general health district"); R.C. 3709.10 (authorizing the combination of two to five contiguous general health districts, and stating that "[w]hen such union is completed, such district shall constitute a general health district").² Thus, the term "general health district," as used in statute, encompasses both "single" general health districts and combined general health districts, such as the one involved in your questions. *See* 1980 Op. Att'y Gen. No. 80-087 at 2-339 ("a statute which applies to general health districts is equally applicable to health districts formed in accordance with R.C. 3709.07, R.C. 3709.071, and R.C. 3709.10").

A general health district is a political subdivision of the state. 1991 Op. Att'y Gen. No. 91-016 at 2-80 ("health districts are political subdivisions of the state, governed by state law, and are separate from any city, county, township, or other local government"); Op. No. 80-087 at 2-343 ("[g]eneral health districts are political subdivisions of the state, not state agencies"); 1974 Op. Att'y Gen. No. 74-032 at 2-144 (a general health district is "an arm of the state and

¹ The Cambridge-Guernsey County Health District was formed in 1949 by the union of a city and general health district, pursuant to what is now R.C. 3709.07. *See* 1954 Op. Att'y Gen. No. 3499, p. 47 at 47.

² A city health district may also combine with one or more contiguous city health districts. R.C. 3709.051. The resulting combined district retains the designation of city health district. *Id.*

derives its authority directly from the state"). In each general health district, the General Assembly has provided for a board of health, R.C. 3709.02(A), and a district advisory council, R.C. 3709.03.³ The organization, powers, and duties of these bodies, as well as their relationship to each other and to other governmental entities, are governed by the provisions of R.C. Chapter 3709 and other pertinent provisions of R.C. Title 37. *See generally* 1983 Op. Att'y Gen. No. 83-067 at 2-275 ("boards of health and district advisory councils of general health districts...are creatures of statute and have only those powers which are expressly granted by statute, or necessarily implied therefrom").

Boards of Health of General Health Districts

The board of health of a general health district consists of five members, who are appointed to overlapping five-year terms by the district advisory council. R.C. 3709.02(A); R.C. 3709.03. At least one member of the board must be a physician. R.C. 3709.03(B). In the case of a combined general health district, the number of board members, their terms of office, and the manner of their appointment may be altered as provided in R.C. 3709.07, R.C. 3709.071, or R.C. 3709.10.

The powers and duties of the board of health are set out primarily in R.C. Chapters 3709, governing health districts, and R.C. 3707, governing boards of health. The board of health is vested with broad general authority to provide for the health needs of the district. *See* R.C. 3709.21 ("board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement, or suppression of nuisances"). Mandatory duties of the board include the abatement and removal of all nuisances, R.C. 3707.01, inspection of sanitary conditions in schools, R.C. 3707.26, the provision of free diphtheria antitoxin, R.C. 3709.25, inspection and licensure of food service operations, R.C. Chapter 3732, and inspection and licensure of manufactured home parks, marinas, and agricultural labor camps, R.C. Chapter 3733. The board has discretionary authority to establish numerous other health-related programs or services, such as free vaccinations, R.C. 3707.27, home health care services, R.C. 3709.15, prenatal and infant care clinics, R.C. 3709.18, medical and dental supervision of school children, R.C. 3709.22, free treatment of venereal diseases, R.C. 3709.22; R.C. 3709.24, inspection of jails and various other public institutions, R.C. 3709.22; R.C. 3709.26, laboratory work, R.C. 3709.23, and detention hospitals for treatment of communicable diseases, R.C. 3709.27. *See also* R.C. 3709.282 (authority to participate in federal programs).

The public health services of the general health district, as established by the board of health, are implemented by the district health commissioner and the employees of the district. The board of health appoints the district health commissioner and, if the health commissioner is not a licensed physician, a medical director. R.C. 3709.11. The board is further authorized to appoint public health nurses, clerks, physicians, sanitarians, R.C. 3709.13; R.C. 3709.14, school inspectors, R.C. 3707.03, and meat and dairy inspectors, R.C. 3707.33. The board of health also may contract with various individuals or public or private agencies to provide home health care services. R.C. 3709.15.

³ There is no provision for a district advisory council to a city health district. City health districts are governed by a board of health, R.C. 3709.05; R.C. 3709.051, or by such means as designated in a particular city charter, R.C. 3709.05.

District Advisory Councils of General Health Districts

The district advisory council of a general health district is established pursuant to R.C. 3709.03(A), which states, in pertinent part:

The president of the board of county commissioners, the chief executive of each municipal corporation not constituting a city health district, and the chairman of the board of township trustees of each township in a general health district shall meet annually at the county seat and shall organize by selecting a chairman and a secretary.... Such organization shall be known as the "district advisory council." *The council shall meet annually for the purpose of electing its officers, appointing a member of the board of health, receiving and considering the annual or special reports of such board, and making recommendations to it or to the department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation.* Such meeting shall be held on the first Monday in March unless another date in March is fixed by the chairman upon written notice given by the secretary to each member of the council and board of health not less than seven nor more than thirty days prior to the date set for such meeting. The secretary of the council shall notify the district health commissioner and the director of health of the proceedings of such meeting.⁴ *Special meetings of the council shall be held on request of the board of health or on the order of the director.* (Footnote and emphasis added.)

Additional duties of the district advisory council of a general health district are as follows. At the annual meeting required by R.C. 3709.03, the district advisory council must appoint persons to fill any vacancies to unexpired terms on the board of health of the general health district. R.C. 3709.02(D). If the public health council⁵ removes all or a majority of the members of the board of health of a general health district, the district advisory council is required to fill the vacancies within sixty days of receiving notice of the removals. R.C. 3709.35. A district advisory council must approve any proposal made pursuant to R.C. 3709.07 or R.C. 3709.10 to combine its general health district with other city or general health districts.⁶ After the union of a general health district and one or more city health districts has been approved, the chair of the district advisory council of the general health district and the chief executive of each city involved must then enter into a contract for the administration of health

⁴ The director of health is the chief executive officer of the state department of health. See R.C. 3701.02; R.C. 3701.03. The district health commissioner, who is appointed by the board of health of a general health district, serves as the secretary and executive officer of the board and carries out orders of the board and the state department of health. R.C. 3709.11.

⁵ The public health council, a component of the state department of health, is comprised of six health professionals and one member of the general public. The members of the council are appointed by the governor. See R.C. 3701.02; R.C. 3701.33.

⁶ A district advisory council is not required to approve proposals for combinations of districts when they are made pursuant to R.C. 3709.071, however. When the R.C. 3709.071 process is used, the proposal for combination is placed on the ballot by initiative petition and approved or rejected by popular vote.

affairs of the combined district. R.C. 3709.07; R.C. 3709.071. In situations where health districts have not formally combined, one health district may contract with another for the receipt or provision of health services. R.C. 3709.08; R.C. 3709.081. Such a contract must be approved by the district advisory council of each general health district that is a party to the contract. *Id.* Finally, a district advisory council has authority to disapprove any fees for services that have been established by the board of health of a general health district pursuant to R.C. 3709.09.

When a general health district combines with other health districts under R.C. 3709.07, R.C. 3709.071, or R.C. 3709.10, the composition of the district advisory council for the resulting combined general health district and the council's specific powers and duties with respect to the appointment of members of the board of health of the combined district may be altered from what is provided in R.C. 3709.03.⁷ I have found no statutory distinctions between the district advisory council of a combined general health district and an original general health district with respect to the issues raised by your questions, however.

Question One: Special Meetings of a District Advisory Council

A. Authority to Hold Meetings in Addition to Those Required by Statute

R.C. 3709.03 requires a district advisory council to have an annual meeting, but provides for no other regular or fixed meetings. Thus, all meetings other than the annual meeting are special meetings. *See* 1950 Op. Att'y Gen. No. 2041, p. 491 (syllabus, paragraph two). With respect to special meetings, R.C. 3709.03(A) states that "[s]pecial meetings of the council shall be held on request of the board of health or on order of the director." No other statute governing district advisory councils provides expressly for any special meetings. It is necessary to determine, therefore, whether authority to call additional special meetings is implied from the other powers and duties of a district advisory council.

Although a district advisory council is required, by the terms of R.C. 3709.03(A), to have special meetings when called by the board of health or the director of health, neither the board of health nor the director of health has statutory authority to control the exercise of any other powers and duties of a district advisory council. Nonetheless, the other powers and duties of a district advisory council involve matters that may arise at times other than the annual meeting, and thus require additional meetings. For example, a district advisory council has authority, under R.C. 3709.03(A), to make recommendations to the board of health of the general health district or to the state department of health, and must meet in order to do so. *See* 1924 Op. Att'y Gen. No. 1169, p. 53 at 56. The development of recommendations may require several meetings. Some recommendations may involve time sensitive issues upon which action cannot be delayed until the annual meeting. Thus, it may not be possible or expedient for the district advisory council to make its recommendations only at the annual meeting. *Id.*

⁷ For example, in the Cambridge-Guernsey County Health District, the district advisory council includes the mayor of Cambridge as well as the council members designated under R.C. 3709.03. Seats on the board of health are apportioned between the city of Cambridge and the original general health district based on population. The district advisory council, acting as a body, appoints the members of the board of health who represent the original general health district. The mayor, acting independently of the district advisory council, appoints the members of the board of health who represent the city.

Similarly, the need may arise between annual meetings to consider proposals or contracts for combined general health districts under R.C. 3709.07, R.C. 3709.071, or R.C. 3709.10; to approve contracts for the receipt or provision of health services under R.C. 3709.08 or R.C. 3709.081; or to take action with respect to fees for services under R.C. 3709.09.

To conclude that a district advisory council could only hold special meetings called by the board of health or the director of health would make the district advisory council's authority to act in the above described matters dependent on the board of health and the director of health. This would hinder the district advisory council in the proper exercise of its statutory powers and duties. The authority to hold special meetings other than those called by the board of health or the director can thus be implied as necessary to the proper discharge of the duties of the district advisory council. See, e.g., *State ex rel. Cline v. Trustees*, 20 Ohio St. 288, 293 (1870) (holding that implied authority for a board of township trustees to hold special meetings arises "from the fact that many duties are enjoined upon the trustees which cannot be properly discharged at the regular meetings"), cited in 1924 Op. No. 1169 at 56. I concur, therefore, with the conclusion of my predecessor that "[t]he district advisory council of a general health district may hold special meetings without the call of the state director of health or of the district board of health." 1924 Op. No. 1169 (syllabus, paragraph one).

B. Means of Calling Additional Special Meetings

This conclusion raises the ancillary issue of how such special meetings may be called. This question was considered in 1990 Op. Att'y Gen. No. 90-028, in the context of the statutes governing the county boards of revision. Pursuant to R.C. 5715.09, the secretary of a board of revision is authorized to call meetings "as often as necessary." No other statute governing boards of revision provides expressly for any special meetings. My predecessor reasoned first, as I have with respect to a district advisory council, that a board of revision has authority to call meetings in addition to those called by the secretary. Op. No. 90-028 at 2-106 through 2-107. However, "the power to make the decision is vested in the body itself and not inherently in an individual officer. The decision that a meeting is necessary requires a concurrence of the majority of the body." Op. No. 90-028 (syllabus, paragraph one). Thus, a district advisory council may call a special meeting by agreement of a majority of its members.

A district advisory council that exercises this authority only on an ad hoc basis, however, will encounter difficulties in circumstances where the need for a special meeting has not been anticipated and acted on in the course of a meeting, since the council may act only in a properly convened meeting. See generally *McCortle v. Bates*, 29 Ohio St. 419, 422 (1876) ("members composing the board [of education] have no power to act as a board, except when together in session"). In order to avoid the impasse of needing to be in a meeting to call a meeting, a district advisory council should exercise its authority to call special meetings in a general way applicable to all special meetings. The power of a public body to hold special meetings also includes the power to adopt reasonable rules setting forth the method by which such meetings are called. Op. No. 90-028 at 2-107; see also American Soc. of Legislative Clerks and Secretaries, *Mason's Manual of Legislative Procedure* §2 para. 1. (rev. ed. 1989) ("[e]very governmental body has an inherent right to regulate its own procedure subject to provisions of the constitution, statutes, charter or other controlling authority"); Alice Sturgis, *Standard Code of Parliamentary Procedure* 241 (3d ed. 1988). Thus, as an alternative to calling each particular special meeting by a majority vote, a public body with authority to hold special meetings, such as a district advisory council, may enact a procedural rule authorizing one or more of its officers

or members to call a special meeting and setting out the procedure for doing so. *See generally* Op. No. 90-028 at 2-107 through 2-108. By adopting such a procedural rule at the regular annual meeting required by R.C. 3709.03(A), a district advisory council can ensure its ability to call special meetings as the need arises.⁸

I am aware of the rule of statutory construction *expressio unius est exclusio alterius* (the express mention of one thing implies an exclusion of others not mentioned); however, I reject the proposition that by specifically authorizing the board of health and the director of health to call special meetings of a district advisory council, the General Assembly intended to negate the inherent authority of the district advisory council to meet as necessary to fulfill its statutory functions. Neither 1924 Op. No. 1169 nor Op. No. 90-028 found that the statutory designation of a specific public officer to call special meetings had any effect on the power of the public body itself to do so. To the extent that the pertinent language of R.C. 3709.03(A) is directed to district advisory councils, it is stated in the form of a requirement that the council hold such meetings when called by the director of health or the board of health. It does not, therefore, imply any prohibition against the exercise of the inherent authority of a district advisory council to call its own special meetings and to establish a procedure for doing so. *See generally State ex rel. Coulverson v. Ohio Adult Parole Auth.*, 62 Ohio St. 3d 12, 15, 577 N.E.2d 352, 354 (1991) ("*[e]xpressio unius est exclusio alterius* does not mean that anything not required is forbidden").

The doctrine of *expressio unius* is not totally inapplicable, however. I understand that in some instances boards of county commissioners, boards of township trustees, or individual members of these boards have attempted to call special meetings of a district advisory council. The relationship of a district advisory council to these local governmental authorities is similar to the relationship of a district advisory council to the board of health or the director of health. Despite certain statutory connections, a district advisory council exists as a governmental authority independent from its board of health and from the director of health. Similarly, the district advisory council is a governmental authority that exercises its powers independent of the local political subdivisions that are encompassed within the health district boundaries. *See* Op. No. 91-016 at 2-80 ("health districts are political subdivisions of the state, governed by state law, and are separate from any city, county, township, or other local government"); *see also* 1965 Op. Att'y Gen. No. 65-121 (syllabus, paragraph one) ("a general health district...is not part of municipal or county government"). Although the chairs of the governing bodies of local political subdivisions have seats on the district advisory council, R.C. 3709.03, they have no statutory authority over the district advisory council except that which accrues to them as members of the council. No statutes accord a board of county commissioners, a board of township trustees, or any individual member thereof, the power to call special meetings of the district advisory council. Thus, the express grant of authority to the board of health and the director of health serves to support the already obvious conclusion that no other outside public authorities have the power to call special meetings of a district advisory council.

I conclude in response to your first question that a district advisory council, established pursuant to R.C. 3709.03, has inherent authority to call special meetings of the council by acting through the concurrence of a majority of its members with respect to a particular meeting, or by promulgating a procedural rule authorizing specified officers or members of the council to

⁸ I note additionally that the district advisory council is required to promulgate procedural rules that provide adequate notice to the public of special meetings. *See* R.C. 121.22(F).

call special meetings; the board of health of a general health district and the state director of health, as expressly provided in R.C. 3709.03, are the only other public authorities with power to call a special meeting of the district advisory council.

Question Two: Powers of a District Advisory Council with Respect to Personnel and Planning Decisions of the General Health District

Pursuant to a discussion between a member of my staff and the Health Commissioner of the Cambridge-Guernsey County Health Department, I understand the term "personnel decisions" to mean decisions relating to the appointment, discharge, or discipline of personnel who are employees or officers of the general health district. The term "long range planning" means decisions relating to the programs and policies of the general health district. The focus of your inquiry is whether a district advisory council has any authority to impose requirements on a general health district with respect to these matters, and, in effect, to participate in the direct administration of the general health district.

A district advisory council has express authority to appoint members of the board of health of the general health district. See R.C. 3709.03 (authority to appoint members of general health district board of health); R.C. 3709.02(D) (vacancies in general health district board filled in same manner as an original appointment); R.C. 3709.35 (authority to fill vacancies in general health district board of health caused by removal); see also R.C. 3709.07, R.C. 3709.071, and R.C. 3709.10 (governing appointments to combined general health district boards of health). A district advisory council has no authority to remove members of the district board of health, however. Pursuant to R.C. 3709.35, removal authority is exercised at the state level by the public health council acting on charges brought by the director of health. Other than its limited authority with respect to members of the board of health of the general health district, a district advisory council has no express powers over the personnel of the health district.

The powers and duties of a district advisory council include no express authority to "plan" for the general health district or to require that the district adopt particular policies or programs. A district advisory council is authorized to make "recommendations...in regard to matters for the betterment of health and sanitation within the district." R.C. 3709.03. Thus, should the council determine that a particular policy or program, or even a personnel matter, would improve the health and sanitation within the district, the council is free to so recommend. By definition, however, a recommendation "refers to an action which is advisory in nature rather than one having any binding effect." *Black's Law Dictionary* 1272 (6th ed. 1990); see also *Black's Law Dictionary* 54 (defining "advisory" as "not imperative or conclusive").

A district advisory council does have certain contractual authority with respect to a general health district. Pursuant to R.C. 3709.07 and R.C. 3709.071, when the union of one or more city health districts and a general health district has been approved, the chair of the district advisory council of the general health district and the chief executive of each city must enter into a contract "for the administration of health affairs in the combined district." Pursuant to R.C. 3709.08 and R.C. 3709.081, the district advisory council of a general health district must approve contracts for the provision or receipt of public health services between the general health district and a city or general health district. The contents of these contracts are controlled by statute. Contracts under R.C. 3709.07 and R.C. 3709.071 must set out the structure of the board of health of the new district, apportion the expenses of the new board between the member cities and original general health district, and prescribe the date on which the change of

administration is effective. Contracts under R.C. 3709.08 and R.C. 3709.081 must state the amount or proportion of the expenses to be paid by the receiving health district and how it is to be paid, state the amount or character of the health services involved, state the date on which the services begin, and state the duration of the contract. While the authority to enter contracts under the above statutes provides a district advisory council with some measure of control over the means by which programs or services are provided, there is no express authority for a district advisory council to require the general health district to establish particular programs or policies, or to undertake particular personnel actions.

It might be argued that the subject matter of such contracts—the administration of health affairs of a combined health district or the provision or receipt of health services between districts—is broad enough to imply that the district advisory council has authority to specify personnel, program, or policy matters by means of such contracts. However, R.C. 3709.07, R.C. 3709.071, R.C. 3709.08, and R.C. 3709.081 each contain provisions that expressly preserve the statutory powers of the board of health. *See, e.g.*, R.C. 3709.07 (providing that when one or more city health districts combine with a general health district "the board of health or health department of the city, the board of health of the original general health district, or the combined board of health, as may be agreed in the contract, shall have, within the combined district, all the powers granted to, and perform all the duties required of, the board of health of a general health district"). A brief review of the statutory powers of the board of health with respect to personnel and programming reveals that the powers of the board in these areas are exercised independently of the district advisory council.

The statutory authority of the board of health of a general health district over personnel matters is express and detailed. The board of health appoints the district health commissioner and, if the health commissioner is not a licensed physician, a medical director. R.C. 3709.11. The board is authorized to appoint public health nurses, clerks, physicians, sanitarians, and other persons, to full or part time service and in such numbers as the board determines necessary. R.C. 3709.13; R.C. 3709.15.⁹ The board of health determines the duties and fixes the salaries of its employees, purchases life, health and liability insurance for its employees, R.C. 3709.16; R.C. 3709.161, and reimburses employees for travel expenses outside the district, R.C. 3709.17. Employees of the board of health of a general health district are in the classified service of the state, subject to removal for cause by a majority of the board. R.C. 3709.13. The board of health also may contract with various individuals or public or private agencies to provide services as authorized by R.C. 3709.15. Thus, the authority to make personnel decisions for a general health district has been delegated to the board of health, not to the district advisory council. Since the statutes granting the district advisory council contractual authority in matters involving other health districts expressly preserve the statutory powers of the district board of health, *see* R.C. 3709.07; R.C. 3709.071; R.C. 3709.08; and R.C. 3709.081, it follows that there is no implied authority for the district advisory council to make controlling decisions by means of such contracts with respect to personnel. To the extent that a district advisory council determines personnel matters are related to "the betterment of health and sanitation within the district," the council may make recommendations pursuant to R.C. 3709.03(A). It may not, however, compel a board of health to comply with its recommendations.

⁹ The legislative authority of a city has express authority to limit the number of sanitarians, public health nurses, and licensed practical nurses that a city health district board of health may appoint. R.C. 3709.14. In contrast, a district advisory council has no such limiting authority with respect to appointments made by a general health district board.

With respect to programmatic matters, neither the board of health nor the district advisory council has been given express authority to adopt a long range plan for a general health district. The authority of the board of health to determine the programmatic needs of the general health district, however, is express and detailed. As discussed previously, the board of health is vested with both general authority to provide for the health needs of the district and with specific authority to implement designated programs. *See* R.C. 3709.21 ("board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement, or suppression of nuisances"); *see also* R.C. 3707.27 (authority to provide free vaccinations); R.C. 3709.15 (authority to provide home health care services); R.C. 3709.22 (authority to provide medical and dental supervision of school children and to provide inspection of public institutions and food facilities); R.C. 3709.23 (authority to provide for laboratory work); R.C. 3709.24 (authority to provide treatment for and quarantine of carriers of venereal diseases); R.C. 3709.27 (authority to establish detention hospitals for treatment of communicable diseases); R.C. 3709.282 (authority to participate in federal programs). The board of health is also required to adopt an appropriation measure itemizing anticipated expenses for each fiscal year. R.C. 3709.28.

These statutes give the board of health broad discretion to determine the necessity for, and the means of, implementing health-related programs. It is implicit, that the board, in the exercise of its discretion, may consider the long range effects of its actions in adopting the current budget and program policy. Nothing in the statutes governing program decisions, however, empowers a district advisory council to require the board of health to consider or to adopt a long range plan. None of the statutes detailing the board's authority over program matters authorizes the district advisory council to participate in or control the decision-making process. Since the statutes granting the district advisory council contractual authority in matters involving other health districts expressly preserve the statutory powers of the district board of health, *see* R.C. 3709.07; R.C. 3709.071; R.C. 3709.08; and R.C. 3709.081, it follows that there is no implied authority for the district advisory council to make controlling decisions by means of such contracts with respect to programming, either long or short term. The district advisory council is, of course, free to develop a long term plan and, pursuant to R.C. 3709.03(A), to recommend it to the board of health. The council has no authority, however, to enforce such a plan.

I conclude, in response to your second question, that the authority to make personnel decisions for a general health district is vested in the board of health of that general health district. A district advisory council of a general health district has no authority to make or participate in personnel decisions of a general health district, except for the power to make nonbinding recommendations pursuant to R.C. 3709.03(A), and the power to appoint members of the board of health of the general health district as provided in R.C. 3709.02(D), R.C. 3709.03, and R.C. 3709.35. Similarly, the authority to make program and policy decisions for the general health district is vested in the board of health, and a district advisory council has no authority to require the board of health to adopt or conform to a long range plan recommended by the district advisory council. The authority of a district advisory council with respect to these matters is limited to such indirect influence as it may exert through its power to make recommendations, appoint members of the board of health, enter into contracts when other health districts are involved, and to disapprove fees for services.

Conclusion

It is, therefore, my opinion and you are hereby advised that:

1. A district advisory council, established pursuant to R.C. 3709.03, has inherent authority to call special meetings of the council by acting through the concurrence of a majority of its members with respect to a particular meeting, or by promulgating a procedural rule authorizing specified officers or members of the council to call special meetings; the board of health of a general health district and the state director of health, as expressly provided in R.C. 3709.03, are the only other public authorities with power to call a special meeting of the district advisory council.
2. A district advisory council of a general health district has no authority to make or participate in personnel decisions of a general health district, except for the power to make nonbinding recommendations pursuant to R.C. 3709.03(A), and the power to appoint members of the board of health of the general health district as provided in R.C. 3709.02(D), R.C. 3709.03, and R.C. 3709.35.
3. The authority to make program and policy decisions for a general health district is vested in the board of health established pursuant to R.C. 3709.02; a district advisory council established pursuant to R.C. 3709.03 has no authority to require the board of health to adopt or conform to a long range plan recommended by the district advisory council.