



HENRY McMASTER
ATTORNEY GENERAL

March 16, 2010

Kathryn Long Mahoney, Esquire
Post Office Box 11367
Columbia, South Carolina 29211-1367

Dear Ms. Mahoney:

In a letter to this office you referenced a prior opinion of this office dated February 9, 2006 that interprets S.C. Code Ann. § 59-63-30 which states:

[c]hildren within the ages prescribed by § 59-63-20 shall be entitled to attend the public schools of any school district, without charge, only if qualified under the following provisions of this section:

- (a) Such child resides with its parent or legal guardian;
- (b) The parent or legal guardian, with whom the child resides, is a resident of such school district; or
- (c) The child owns real estate in the district having an assessed value of three hundred dollars or more; and
- (d) The child has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to § 59-19-90; and
- (e) The child has not been guilty of infraction of the rules of conduct promulgated by the trustees of such school district pursuant to § 59-19-90.

The opinion concludes that

Section 59-63-30...on its face, does not specify a child, in order to attend a public school in a district, must reside with its custodial parent living in that district. Thus, in our opinion, Section 59-63-30 allows a child to attend a public school in the district in which either parent resides, assuming the child resides with the parent located in that district.

You are now seeking clarification as to whether such opinion addresses the issue of what factors authorize a "parent" to enroll a child in a school district. You specifically reference S.C. Code Ann. § 63-17-20(B) which provides, in part,

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[u]nless the court orders otherwise, the custody of an illegitimate child is solely in the natural mother unless the mother has relinquished her rights to the child. If paternity has been acknowledged or adjudicated, the father may petition the court for rights of visitation or custody in a proceeding before the court apart from an action to establish paternity.

As to such provision, you stated that "...we believe that a natural father of a child who was never married to the child's mother would not have the legal authority to enroll a child, or otherwise exercise parental rights with respect to the child, without a court order." Therefore, you stated that you are "...seeking clarification as to whether the February 9, 2006 opinion addresses this issue of when a parent has the authority to enroll a child, as opposed to the question of when a child is eligible for enrollment."

In the opinion of this office, the answer to your question would remain the same as expressed in the February, 2006 opinion. That opinion did not address the question of the right or authority of an individual to enroll a child. Instead, Section 59-63-60 simply allows a child to attend a public school in the district in which either of his or her parent resides. In the opinion of this office, a parent's authority to enroll a child is a totally separate issue from the issue of what factors authorize a parent to enroll a child in a particular school district. In other words, in the opinion of this office, the provisions of Section 63-17-20(B) are irrelevant, and have no impact as to the issue of the right of a child to attend a public school in the district in which either parent resides, assuming that the child resides with the parent located in that district.

With kind regards, I am,

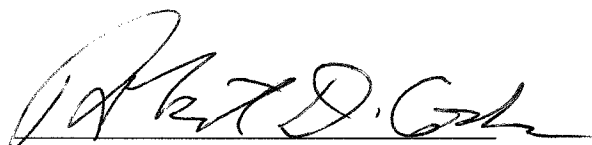
Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
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