



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

October 6, 1999

The Honorable Ronald P. Townsend
Chairman
House Education and Public Works Committee
Room 420, Blatt Building
Columbia, SC
By Delivery

Dear Chairman Townsend:

You have requested an informal opinion as to a question posed by a constituent as to whether his children may attend school free of charge in a school district in which they own property, but do not reside. A pertinent statutory provision is S.C. Code Ann. § 59-63-30 (1990) which states that a child may attend public schools free of charge, if among other reasons, the child resides with his or her parent or legal guardian and the parent or guardian either reside in the district or "... (c) the child owns real estate in the district having an assessed value of three hundred dollars or more...." According to your constituent, the children own property in a district in which they attend the schools as non-residents, but the school district claims that they must now pay to attend schools in that district pursuant to § 59-63-45 (A) (Supp. 1998) which provides, in part, as follows:

(A)...a nonresident child otherwise meeting the enrollment requirements of this chapter may attend a school in a school district which he is otherwise qualified to attend if the person responsible for educating the child pays an amount ... [as specified therein...]

(D) Non-resident students enrolled in the schools of a district no later than September 9, 1996. shall not be required to meet the conditions of subsection (A) of this section as long as the student is continuously enrolled in the district and as long as the student meets the qualifications provided by law for attending the schools of the district.

The Honorable Ronald P. Townsend

October 6, 1999

Page 2

The information provided by your constituents is that the students meet the requirements of paragraph (D), *supra*, including enrollment since September 9, 1996, but the school district has informed the family that it will not apply the exemption of paragraph (D) because at one point during this period, the family moved back into the district and lived in rental property. Therefore, the question is whether, under these circumstances, the simple move of the family into and out of the district after September 9, 1996 would remove this exemption.

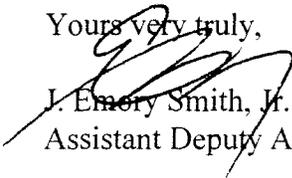
The "...primary function in interpreting a statute is to ascertain the intention of the legislature." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E. 2d 134 (1986). "Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning." Id.

The language of paragraph (D) *supra*, is plain and indicates no exception for the moves of families. The only continuity requirement therein is the continuous enrollment of the children, and the date for fixing qualifications for the exemption from Paragraph (A) is September 9, 1996. Accordingly, assuming that the children otherwise meet the requirements of paragraph (D), they are entitled to the exemption therein, even though their family moved back into the district for some period of time after September 9, 1996.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,



J. Emory Smith, Jr.

Assistant Deputy Attorney General