

The State of South Carolina

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Office of the Attorney General

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August 8, 1988

The Honorable Alex Harvin, III
South Carolina House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Harvin:

You have requested that this Office expedite an Opinion requested by Dr. Floride Martin of Clarendon School District One. Attached is a copy of the response to her dated July 25, 1988.

The July 25th letter to Dr. Martin referenced §§59-63-490 through 59-63-520 of the Code of Laws of South Carolina, (1976) (copies enclosed) in response to Dr. Martin's question concerning the transfer of students from the school district in which they reside to an adjacent school district without a release from their school district of residence. A "plain reading" of §59-63-500 (S. C. Dept. of Highways and Public Transportation v. Dickinson, 341 S.E.2d 134, (S.C. 1986); Sutherland Statutory Construction, Vol. 2A §46.01, et seq.) indicates that the consent of the school district of residence is required for the transfer of students from the district of residence to another district in which the student is not to reside (See also § 59-63-490); however, I express no opinion as to the application of these statutes to particular students in your area as this Office cannot address factual questions within the scope of opinions. Ops. Atty. Gen., (December 12, 1983). In addition, although correspondence attached to your letter referenced a possible federal court order relating to the transfer question, this Office has not seen and has no information as to the contents of any such order, and therefore, does not know what impact, if any, such an order would have on this matter.

In conclusion, the consent of the school district of residence is required for the transfer of students from the district in which they reside to an adjacent district in which they are not to reside. This letter expresses no opinion about the application of the transfer statutes to particular individuals.

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If you need additional information, please let me know.

Sincerely yours,



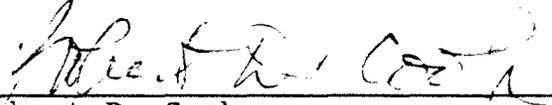
J. Emory Smith, Jr.
Assistant Attorney General

JESjr/jps

Enclosures

cc: George C. Leventis, Esquire

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions