HENRY MCMASTER
ATTORNEY GENERAL

July 8, 2009

The Honorable Shane Martin
Senator, District No. 13
P. O. Box 575
Pauline, South Carolina 29374

Dear Senator Martin:

In a letter to this office you questioned the provisions of S.C. Code Ann. § 59-63-30 which state that:

> [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.

You indicated that in the situation you addressed, two or more children jointly own property with each portion of the ownership meeting the three hundred dollar requirement of the referenced provision. You have questioned whether such children can jointly own property in such circumstances and still meet the three hundred dollar requirement of Section 59-63-30.

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v.

Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). Statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

Section 59-63-30 is specific in stating that "[t]he child owns real estate in the district having an assessed value of three hundred dollars or more...." Consistent with the above, in the opinion of this office, each child must hold in his or her name solely real estate having an assessed value of three hundred dollars or more. In the situation where two or more children jointly own property with each portion of the ownership meeting the three hundred dollar requirement of the referenced provision, in the opinion of this office, such joint ownership would not qualify. Such construction is consistent with a prior opinion of this office dated December 8, 2005 which stated that "...each child...(must)...own real estate in the district having a value of three hundred dollars or more" and an opinion dated April 3, 1978 which states that "...a child may attend the public schools of any district in which the child owns real estate having an assessed value of three hundred dollars or more...."

I would advise further, however, that in addition to Section 59-63-30, S.C. Code Ann. § 59-63-45 states that

> (A) [n]otwithstanding the provisions of this chapter, 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 equal to the prior year's local revenue per child raised by the millage levied for school district operations and debt service reduced by school taxes on real property owned by the child paid to the school district in which he is enrolled. The district may waive all or a portion of the payment required by this section.
>
> (B) Students attending a school pursuant to this section must be counted in enrollment for purposes of determining state aid to the district.
>
> (C) If the payment to the school district is not made within a reasonable time as determined by the district, the child must be removed from the school after notice is given.

> (D) Any nonresident student 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.

Section 59-63-30 is a provision in the same chapter as Section 59-63-45.

As set forth by Section 59-63-45, a nonresident child may attend a school in a school district which he is otherwise qualified to attend if the parent "...pays an amount equal to the prior year's local revenue per child raised by the millage levied for school district operations and debt service reduced by school taxes on real property owned by the child paid to the school district in which he is enrolled." Such requirement must be read in addition to the provisions of Section 59-63-30.

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
Deputy Attorney General