



HENRY McMASTER  
ATTORNEY GENERAL

September 23, 2008

The Honorable Jim Rex  
State Superintendent of Education  
SC Department of Education  
1429 Senate Street  
Columbia, South Carolina 29201

Dear Superintendent Rex:

In a letter to this office you referenced that the Colleton County School District asked the State Department of Education if it can transport private school students on state-owned school buses from Edisto Beach to Walterboro along with the 21-26 public school students who are transported daily along that route. You indicated that there is a private school in Walterboro that provides instruction for a few students who live on Edisto Beach. You stated that there would be no additional cost to the State Department of Education. However, you noted that pursuant to S.C. Code Ann. § 59-67-710, your insurance only covers "lawful" occupants.

You particularly referenced the provisions of S.C. Code Ann. § 59-67-510 which states:

[c]ounty boards of education may permit the use of school bus equipment for transportation in connection with athletic events, boy's and girl's clubs, special events in connection with the schools, official functions by the office of the Adjutant General of South Carolina, and the Reserve Components of the United States Armed Forces which must reimburse the boards of education, at least, for the costs of use of the buses, including depreciation, and other educational purposes as may appear proper to the respective boards.

As is apparent, there is no provision in such statute permitting the use of state-owned school buses to transport private school students. Moreover, a prior opinion of this office dated October 6, 1987, a copy of which is enclosed, referenced various State statutes and stated that

[c]onstruing all these provisions together and giving them their plain meaning clearly indicates a legislative intent that public transportation on state owned school buses

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be provided only for public school students...Therefore, such transportation on state owned school buses may not be provided for private school students.

Consistent with such, in the opinion of this office, the Colleton County School District would not be authorized to transport private school students on state-owned school buses from Edisto Beach to Walterboro to a private school along with the public school students who are transported daily along that route.

If there are any questions, please advise.

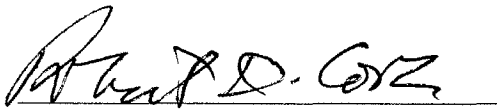
Sincerely,

Henry McMaster  
Attorney General



By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Deputy Attorney General