

The State of South Carolina



Office of the Attorney General

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January 3, 1992

Mr. George M. Smith
Director of Development
Wil Lou Gray Opportunity School
Post Office Box 280128
Columbia, South Carolina 29228-0128

Dear Mr. Smith:

You have requested an opinion of this office as to whether persons from another state may serve on the Wil Lou Gray Opportunity School's (School) Board of Trustees nominated by the Alumni Association. S.C. Ann. § 59-51-30 (1990) provides that two of the members of the Board of Trustees of the School should be elected by the school's Alumni Association. By the express terms of that statute, the Board's Trustees must be "...citizens of the state who are interested in the aims and ambitions of the school." See Ravenel v. Dekle, 265 S.C. 364, 218 S.E.2d 521, 527 (1975) ("resident" in the domiciliary sense is embodied within the term 'citizen.'). In addition, S.C. Constitution Art. XVII, § 1 provides that "[n]o persons shall be elected or appointed to any office in this state unless he possess the qualifications of an elector..." Where residency requirements have not been specified by the legislature, such may be necessarily implied, to prevent circumvention of the Constitution. Ops. Atty. Gen. No. 85-76, p. 205 (August 1, 1985). Therefore, under the express terms of Section 59-51-30 as well as the requirements of Art. XVII, § 1, the School's Trustees elected must be South Carolina residents including those chosen by the Alumni Association.

You have also asked whether a Trustee who is out of state during his or her term of office may continue to serve. This Office has previously issued opinions that state that when an office holder ceases to reside in the appropriate locality, he vacates his position and becomes a de facto officer until his successor is selected. Ops. Atty. Gen. August 1, 1985, supra.

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Therefore, a trustee of the School who discontinued residence in South Carolina would vacate the position and become a de facto officer until a successor was selected.

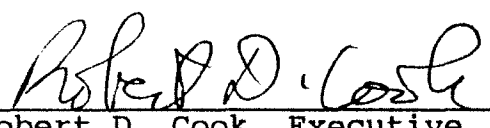
Yours very truly,



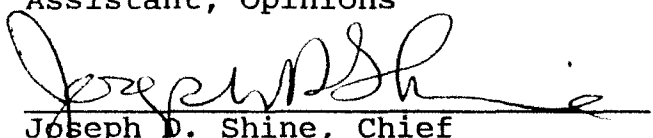
J. Emory Smith, Jr.
Assistant Attorney General

JES,JR:jca

REVIEW AND APPROVAL:



Robert D. Cook, Executive
Assistant, Opinions



Joseph D. Shine, Chief
Deputy Attorney General