

January 9, 2008

Mr. Harvey A. Dailey
539 Heritage Hills Drive
Spartanburg, South Carolina 29307

Dear Mr. Dailey:

In a letter to this office you referenced a prior opinion to you dated February 28, 2007 which dealt with the question of whether you may hold a position on the Spartanburg School District Three Board while remaining employed as an Industrial Relations Coordinator at the Daniel Morgan Technology Center. That opinion was premised on the understanding that you were employed by Spartanburg School District Seven but served students from both Spartanburg School Districts Three and Seven. That opinion concluded that

...because you are considered an employee of District Seven, you likely receive compensation from District Seven and are subject to its personnel policies. Therefore, District Seven also appears to have some authority over your position and possibly your compensation.

The opinion also concluded that in light of such circumstances your service on the District Three Board while remaining at the Technology Center “would not create a master-servant conflict of interest.” As a result, it was the opinion of this office that there was no prohibition to your serving on the District Three Board.

You indicated that formerly District Seven was the “fiscal agent” for the Technology Center. However, you have now indicated that Spartanburg School Districts Three and Seven “...have decided to give fiscal agent status to School District Three.” You have now questioned whether the Technology Center’s change of fiscal agent from School District Seven to School District Three changes the master-servant status and your ability to serve as a school board member of District Three.

In our telephone conversation, you indicated that by virtue of the change in “fiscal agent” status, you are now paid by District Three. You also are considered an employee of District Three and are subject to the personnel policies of District Three.

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S.C. Code Ann. § 59-19-300 states that it is “unlawful for a school trustee to receive pay as a teacher of a free public school that is located in the same school district of which such person is a trustee.” Also, as referenced in the prior opinion to you, “...a master-servant conflict arises when an individual serves as an employee for the same body to which he or she serves as an officer.” Consistent with such, inasmuch as you are now paid by School District Three, are considered an employee of that district and subject to its personnel policies, in the opinion of this office you would not be permitted to continue serving on the District Three Board of Trustees.

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
Assistant Deputy Attorney General