



ALAN WILSON  
ATTORNEY GENERAL

May 31, 2016

The Honorable Molly M. Spearman  
State Superintendent of Education  
South Carolina Department of Education  
1429 Senate Street  
Columbia, South Carolina 29201

Dear Superintendent Spearman:

On July 9, 2015 this Office issued an opinion in response to your questions regarding S.C. Code Ann. § 59-19-350 (Supp. 2014). See Op. S.C. Att'y Gen., 2015 WL 4497736 (July 9, 2015). As the title suggests, Section 59-19-350 permits the creation of “[s]chools of choice exempt from state laws and regulations.” In part, you asked whether the language chosen by the Legislature in Section 59-19-350(A), permitting a district to create “a school of choice within the district,” implies that only *one* school of choice can receive such designation within a certain district. In your opinion request, you also included an example of a county school district that created an all choice district in that all thirty (30) schools in the district are choice schools, pursuant to Section 59-19-350.

Relying on the applicable rules of statutory construction, our July 9, 2015 opinion concluded as follows:

[a]s we believe the statute’s language conveys a clear and definite meaning, does not produce an absurd result when interpreted, and gives meaning to all provisions of the statute, it is our opinion that a court would find S.C. Code Ann. § 59-19-350 (Supp. 2014) permits a local school district board of trustees to create one school of choice within its district for the purpose of providing new, innovative, and more flexible ways of educating children.”

Op. S.C. Att’y Gen., 2015 WL 4497736 (July 9, 2015).

We have been asked to revisit this opinion in a different context. As you are aware, Meeting Street Schools (MSS), a not-for-profit 501-(C)(3) organization, has entered into a public-private partnership with the Charleston County School District to improve educational opportunities for under-resourced children. It is our understanding the MSS recently worked to improve what is now called Meeting Street Elementary at Brentwood, a school of choice, and is currently contemplating similar improvements to Burns Elementary. Thus, Burns Elementary would be a second Meeting Street Elementary School: Meeting Street Elementary at Burns.

The Honorable Molly M. Spearman

Page 2


May 31, 2016

It is also contemplated that Meeting Street Elementary at Burns will operate as a school of choice. However, because it would be in same constituent district as Meeting Street Elementary at Brentwood, concern has arisen that operation of both schools would violate S.C. Code Ann. § 59-19-350 (Supp. 2014) as more than one school of choice would potentially be in operation in the district.

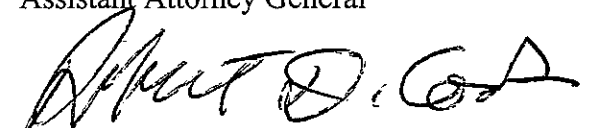
In review of the facts unique to this situation, if Meeting Street Elementary at Burns were established, we believe a court would find only one school of choice exists in Charleston County School District, Constituent District 4. To explain, both Meeting Street Elementary at Brentwood and Meeting Street Elementary at Burns would exist due to the same public-private partnership between the Charleston County School District and MSS. While we understand the two schools would have different school identification codes and enrollment zones, this unique operation, in existence by the same non-profit corporation, in our opinion, would constitute as one school, Meeting Street Elementary, with two locations, Meeting Street Elementary at Burns and Meeting Street Elementary at Brentwood. In other words, it is our opinion that a court would find the opening of Meeting Street Elementary at Burns would be considered an extension of the formerly created Meeting Street Elementary at Brentwood. Accordingly, we believe only one school of choice would be in existence, pursuant to the requirements set forth in S.C. Code Ann. § 59-19-350 (Supp. 2014), as previously interpreted in Op. S.C. Att'y Gen., 2015 WL 4497736 (July 9, 2015).

We look forward to the profound educational impact Meeting Street Elementary at Burns, like Meeting Street Elementary at Brentwood, will have on the children residing in Constituent District 4.

Very truly yours,



Anne Marie Crosswell  
Assistant Attorney General



Robert D. Cook  
Solicitor General