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State of South Carolina
Office of the Inspector General

JAMES V. MARTIN
INSPECTOR GENERAL

NIKKI R. HALEY
GOVERNOR

June 13, 2012

Dr. Mick Zais, State Superintendent
South Carolina Department of Education
1429 Senate Street
Columbia, SC 29201

Dear Dr. Zais:

I am in receipt of your correspondence of June 12, 2012 referencing an expressed concern relative to the management of Jasper County School District and allegations of possible fraud and waste in the expenditure of public funds within this entity.

While this office finds these allegations of fraud, waste, and mismanagement to be extremely concerning and this matter begs to be further investigated, unfortunately, the scope and authority of the current Office of Inspector General (OIG) does not permit it to investigate the various school districts within the state.

As you may know, the current OIG performs its defined mission and receives its authority in accordance with Executive Order 2011-10 executed by Governor Haley in March, 2011. This order limits the entities where the OIG may conduct investigations to the sixteen (16) cabinet agencies. The legislation recently enacted regarding an OIG as an independent state agency, S258 also restricts the entities in which the office is authorized to conduct investigations. Section 1-6-10 of the S.C. Code of Laws by definition of "Agency" and Section 1-6-20 which sets forth more specifically the types of investigations the OIG will pursue, it eliminates among other entities: "(b) quasi-judicial bodies of state government"; "(d) political subdivisions". Although an opinion from the State Attorney General has not been sought at this time, unofficial research conducted by this office leads it to a strong belief that even the recently enacted OIG will not be authorized to investigate the various school districts. This position is partially based on the following:

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“SECTION 59-17-10. School districts as bodies politic and corporate.

Every school district is and shall be a body politic and corporate, by the name and style of _____ (a descriptive name may be designated by the county board of education or legislative act) School District No _____ (such number may be designated by the county board of education or legislative act), of _____ County (the name of the county in which the district is situated), the State of South Carolina. In that name it may sue and be sued and be capable of contracting and being contracted with to the extent of its school fund and holding such real and personal estate as it may have or come into possession of, by will or otherwise, or as is authorized by law to be purchased, all of which shall be used exclusively for school purposes.”

It is believed this position is further supported by Section 59-1-160 which states:

"School district" defined.

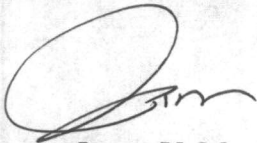
"School district" means any area or territory comprising a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.”

In addition, in as much as the state's education system is directly related to the various counties and with few exceptions school district remains with a county's boundary as near as this office can determine, it is again this office's belief that Title 1, Chapter 6 of the S C Code of Law would prohibit the OIG from conducting investigations of the various school districts in the state.

In closing, I would add it is anticipated the OIG pursuant to S258 will become operational July 1, 2012 with passage of the 2012-2013 Appropriations Act. At this time, you may find it advantageous to revisit this subject with my successor in regards to securing an Attorney General's opinion in order to clarify whether the OIG could, indeed conduct investigations of the various school districts.

I am returning the documentation your agency provided this office in the event an authorized entity does pursue this matter.

Sincerely,



James V. Martin
Inspector General

JM/pw

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