

The State of South Carolina



Office of the Attorney General

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July 6, 1992

The Honorable Donny Wilder
Member, South Carolina House
of Representatives
4 Horseshoe Lane
Clinton, SC 29325

Dear Representative Wilder:

You have requested the opinion of this Office as to matters concerning the Campus Incentive Program (Program) and local salary supplements for teachers. I hope that the information below will be of some assistance to you.

S.C. Code Ann. § 59-21-1210 (Supp. 1991) contains provisions for the Program. See also Act No. 171 § 28.143, 1991 S.C. Acts 1093 (Appropriations Act). You have asked whether any penalties apply if the Program is not implemented by the Department of Education. The above-referenced legislation concerning this Program provides no penalties and makes no provisions in the event that the Program is not implemented.

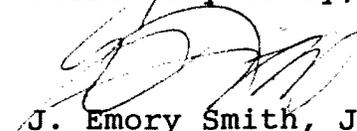
You have also asked about penalties for the failure of a school district to maintain 1992-93 local salary supplements for teachers at a level equal to the 1991-92 level. Because of its recent passage, I do not have a copy of the 1992 Appropriations Act (R637), but I assume that you are referring to a proviso like the one contained in House Bill 4500 § 28.56. That proviso is similar to the 1991 proviso that requires school districts to maintain local salary supplements per teacher at no less than their prior fiscal year level. See Act No. 171 § 28.39, 1991 S.C. Acts 1078.

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A previous opinion of this Office has concluded that the fund cut-off provisions of Education Finance Act section 59-20-80 (1990) apply to Appropriations Act provisos concerning the maintenance of the level of local supplements. Ops. Atty. Gen. (December 9, 1987 - Williams; copy enclosed); see also Ops. Atty. Gen. (December 9, 1987 - Hayes, March 14, 1991 and December 28, 1990); § 59-20-50(4)(b). Section 59-20-80 provides that no State aid shall be given to any school district whose board of trustees fails to comply with the provisions of that Act. Although the 1987 opinion addressed a 1987 proviso, the same conclusion would apply to the proviso for this year. Finally, although the local salary supplement provision was not specifically addressed, I note that the South Carolina Supreme Court has upheld the shared funding formula plan of the Education Finance Act of which section 59-20-50(4)(b) concerning local salary supplements is a part. Richland County v. Campbell, 294 S.C. 346, 364 S.E.2d 470 (1988).

In conclusion, no statutory penalty exists for the absence of implementation of the Campus Incentive Program, but the fund cut-off provisions of section 59-20-80 would be applicable to the failure of a school district to maintain local salary supplements at the previous year's level. If you have any questions, please let me know.

Yours very truly,



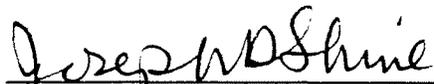
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