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The State of South Carolina



Office of the Attorney General

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August 8, 1986

Dr. Charlie G. Williams
State Superintendent of Education
Department of Education
Rutledge Building
1429 Senate Street
Columbia, South Carolina 29201

Dear Dr. Williams:

You have requested the advice of this Office as to the effect of the following provision of the Education Improvement Act (EIA) on the salaries of teachers who fail to meet the statute's criteria for salary increases (Section 59-20-50(4)(b) as amended by Act 512, Part II, Section 9, Division 2, 1984):

The State minimum salary schedule shall be based on the State minimum salary schedule index in effect as of July 1, 1984.... Beginning with fiscal year 1986, the 1.000 figure in the index shall be adjusted on a schedule to stay at the southeastern average as projected by the Division of Research and Statistical Services...Under this schedule, school districts are required to maintain local salary supplements per teacher no less than their 1983-84 level. In fiscal year 1986 and thereafter, teacher pay raises through adjustments in the State's minimum salary schedule shall be provided only to teachers who demonstrate minimum knowledge proficiency by meeting one of the...criteria [set forth in the statute] (Emphasis added). See also, Act 540, Part I §30, 1986 Appropriations Act.

Dr. Charlie G. Williams
Page Two
August 8, 1986

Specifically, you have asked to be advised as to whether this provision prohibits the following increases in salaries for teachers who do not meet one of the criteria set forth in the statute:

1. Annual inflationary increases in Education Finance Act (EFA) salaries,
2. Increases in local school district supplements,
3. Increases due to each additional year's experience,
4. Increases normally resulting from completion of specified levels of graduate work, and
5. Increases which might occur as a result of upgrading the type of credential a teacher holds.

According to information supplied by your staff, these categories of salary increases are reflected in various positions on the minimum salary schedule (copy attached) except that the schedule does not reflect local salary supplements. The salary amounts listed for particular categories consist of the EFA salaries (Section 59-20-10, et seq. of the Code), the EIA Supplement to those salaries and the total minimum salary which consists of the sum of the EFA and EIA amounts.

Your questions are separately addressed below.

1. Annual Inflationary Increases in EFA Salaries.

"The...primary function in interpreting a statute is to ascertain the intention of the legislature. Anders v. South Carolina Parole and Community Corrections Board, 279 S.C. 206, 305 S.E.2d 229. Where the terms of a statute are clear and unambiguous, there is no room for interpretation, and [they must be applied] according to their literal meaning. State v. Solomon, 279 S.C. 344, 306 S.E.2d 620 (1983)." South Carolina Department of Highways and Public Transportation v. Dickinson (Opn. No. 22483, SC, February 26, 1986). Here, a plain reading of Section 59-20-50(4)(b) indicates that this statute prohibits annual increases in EFA salaries for teachers not meeting its criteria. "Adjustment," with respect to salaries has been defined as including an "increase". Webster's Third New International Dictionary. An inflationary increase in the EFA salaries would necessarily increase and, thus, adjust the amounts on the schedule. This conclusion that the EFA increases adjust the schedule is also supported by express language in a proviso to the current appropriations act which directs an

Dr. Charlie G. Williams
Page Three
August 8, 1986

"...increase [in the EFA component] of...the schedule...." Act 540, Part I §30 of 1986. Moreover, that the provision in question is a part of the EFA as well as the EIA is a very clear indication that EFA increases in the schedule should be considered adjustments to the schedule for which salary increases for affected teachers would be barred. Sutherland, Vol. 2A §46.05.

2. Increases in Local School District Supplements.

Because local salary supplements are supplements to the schedule rather than components of the schedule, the plain language of Section 59-20-50(4)(b) indicates that these supplements would not be affected by the prohibition on salary increases due to adjustments in the schedule. Dickinson, supra. 1/ Therefore, a school district would not be prohibited from choosing to increase its local supplement for teachers not meeting the criteria of Section 59-20-50(4)(b).

3. Increases Due to Each Additional Year's Experience

4. Increases Normally Resulting From Completion of Specified Levels of Graduate Work, and

5. Increases Which Might Occur As A Result of Upgrading The Type of Credential A Teacher Holds

Increases due to these circumstances should not be prohibited by Section 59-20-50(4)(b) for affected teachers because this provision bars only raises that result from "...adjustments in the...schedule...." (Emphasis added.) Because these increases in salary would result only from a teacher's changing his or her position on the schedule graph and would not include an increase or "adjustment" in the schedule amounts such as the EFA increase, a plain reading of Section 59-20-50(4)(b) indicates that these salary increases would be permitted.

CONCLUSION

The questions which you have asked are controlled by the plain language of Section 59-20-50(4)(b) which, for those teachers

1/ A previous opinion of this Office noted that Section 59-20-50 does not require increases in local supplements for any teacher, but the statute expressly prohibits decreases in supplements for teachers below the 1983-84 level. Ops. Atty. Gen. (April 28, 1986).

Dr. Charlie G. Williams
Page Four
August 8, 1986

who fail to meet the statute's criteria, bars only salary increases due to adjustments in the minimum salary schedule. Accordingly, because inflationary increases in the EFA scheduled salaries adjust the amounts on the schedule, EFA inflationary increases are barred for affected teachers. Because increases in salaries for those teachers due to additional years of experience, completion of additional levels of educational work and the upgrading of the type of teacher certificate a teacher holds do not result from or include changes in the amounts on the schedule, those increases are permissible for affected teachers. This provision does not prohibit increases in local school district supplements to salaries for those teachers because those supplements are not components of the schedule.

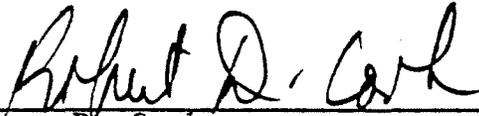
If you have any questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

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REVIEWED AND APPROVED:



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