

1984 WL 249938 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 23, 1984

*1 The Honorable Harry W. Davis, Jr.
Commissioner
Department of Youth Services
Box 7367
Columbia, South Carolina 29202

Dear Harry:

You have requested the advice of this office as to whether teacher in your department (DYS) are entitled to the same percentage increase in their annual salaries, as is applied to the salaries of other school teachers when DYS teachers teach for twelve months of the year and other teachers teach for nine months of the year. [See § 20-7-3240 of the Code of Laws of South Carolina \(1976\)](#), as amended. The proviso in question is included, as follows, in the Department of Education's section of the Appropriation's Act (Act 512, Part 1 § 28, Acts and Joint Resolutions of South Carolina, 1984):

Provided, further, that, the certified instructional personnel of the Department of Youth Services and the Department of Corrections shall receive a percentage increase in their annual salary for FY 1984-85 equal to the percentage allocated to the instructional personnel throughout the state.

Your question is whether this same percentage increase applied to other teachers must be applied to the annual salaries of DYS instructors without adjustment to reflect the differences in teaching time. ¹

'When the language is plain and admits of no more than one meaning the duty of interpretation does not arise and the rules which are to aid doubtful meanings need no discussion. 'Sutherland Statutory Construction, Vol. 2A § 46.01 (4th Edition). Here, the proviso in question, without qualification, provides for the application of the percentage to the 'annual salary' of the DYS personnel. Little question should exist that this term refers to the salary paid in a twelve (12) month year. This percentage increase is to be 'equal to the percentages allocated to other teachers. Because the requirement is that the percentages be equal rather than the dollar amounts of the salary increase the same percentage figure should be applied to DYS salaries as is applied to those of other teachers. Thus, even though a twelve (12) month DYS teacher may receive a larger dollar increase because of the application of the same percentage figure to his or her salary as is applied to the lower salary of a nine (9) month teacher, the figure must be applied without adjustment to reflect that three (3) month difference. This conclusion does not appear to be altered by other provisions in the Department of Education's section of the Appropriation Act for aid to the Department of Youth Services and other agencies and school districts.

In conclusion, the opinion of this office is that the same percentage figure must be applied to DYS's teacher salaries as is applied to those of other school teachers without adjustment to reflect any differences in the length of time that these people teach. If we may be of other assistance, please let us know.

Yours very truly

J. Emory Smith, Jr.
Assistant Attorney General

Footnotes

- 1 We have been advised that the percentage increase in question is that set forth in the Education Improvement Act (Act 512, Part 2, Subdivision C, Subpart 2 § 1(b), 1984). See also Act 512, Part 1, § 28 (other provisos). It provides for a 10.27% increase in the '1.000' figure in State minimum teacher salary schedule. We have been advised that this percentage increase will apply to all categories within the schedule, but it will not apply to local salary supplements above the minimum salary schedule. See § 59-20-50(4)(b) (Education Finance Act). See also Act 512 § 28 (other provisos).

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