

1982 WL 189130 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 8, 1982

**\*1 Re: Administrative Procedures for Payment of Public School Employee Fringe Benefits**

The Honorable Grady L. Patterson, Jr.  
State Treasurer  
P. O. Drawer 11778  
Columbia, South Carolina 29211

Dear Mr. Patterson:

You have requested an opinion from this office as to whether state law would prohibit the transfer of funds appropriated for public school employees' fringe benefits by appropriate booking entries rather than by actual transfer of funds. Under new procedures implemented during the current fiscal year by the Department of Education, fringe benefit funds are allocated to each educational unit according to a formula approved by a special committee of the General Assembly and one-twelfth of the allocation is forwarded on the first of each month to each education unit. Thereafter, the school districts remit the funds monthly or quarterly when due to the State Personnel Division and State Retirement System in payment of health insurance, social security and retirement benefits. A copy of the administrative procedure of the Department of Education is enclosed herewith.

A proviso to Section 28 of the 1981 Appropriations Act, Act No. 178, (Acts and Joint Resolutions of 1981, page 1248), requires the Department of Education to:

develop and implement an internal system of accounting and allocating the appropriation contained herein for 'Fringe Benefits-Public School Employees.' The system shall internally allocate the appropriation to the school districts or educational subdivisions and shall be based on the formula as submitted by the Committee to Study State Educational System.

Provided, Further, that the Department of Education shall be directed to equitably re-allocate such excess funds as may accrue to certain school districts to the benefit of those school districts receiving insufficient funding under this formula.

Provided, Further, That in the event the Department of Education is notified that an educational subdivision will expend for fringe benefits, more than the allocation under the system by either the Retirement Division or State Personnel Division, the Department of Education is directed to withhold the districts' allocation of state funds in amounts sufficient to meet the districts fringe benefit obligations.

While this Act does require the implementation of an 'internal system of accounting,' there is no requirement that funds be actually forwarded to the various school districts. Furthermore, the Appropriation Act in Section 123 (Acts and Joint Resolutions, page 1600) provides that 'All money shall be drawn when actually owing and due.' Under the Department's present procedure, the funds are drawn and forwarded to school districts before the school districts are required to remit the funds back to the State. It would appear that a requirement that payment of public school employees' fringe benefits be made by bookkeeping entry at the time such payments are due rather than by a transfer of funds from the State to the school district and then back to the State, more clearly carries out the mandate of Section 123. Therefore, it is our opinion that a requirement that payments be made by bookkeeping entry rather than transfer of funds is not prohibited by state law.

Very truly yours,

\*2 Richard B. Kale, Jr.

Senior Assistant Attorney General

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