

# The State of South Carolina



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May 20, 1993

The Honorable Barbara Stock Nielsen, Ed.D.  
State Superintendent of Education  
Department of Education  
Rutledge Building, Room 1006  
1429 Senate Street  
Columbia, SC 29201

Dear Superintendent Nielsen:

You have requested the opinion of this Office as to Proviso 28.60 of this year's Appropriations Act which provides as follows: "School districts are required to maintain local salary supplements per teacher, no less than their prior fiscal year level." Act No. 501, Part I, 1992 S.C.Acts 2892. Your question is whether this provision applies to particular experience levels or "cells" within a district or whether it applies only to particular teachers so that a teacher who had not been employed in the district during the previous year would not be entitled to any salary supplement.

As you have noted, a previous opinion of this Office concluded that teachers meeting the criteria for salary increases "...must be paid the State minimum salary schedule amount noted for their class and level of experience plus no less than the amount of the local salary supplement for that experience level for the previous school year." (Emphasis added.) Ops. Att'y Gen. December 9, 1987. This conclusion indicates that a teacher new to a school district would be entitled to the salary supplement paid for his or her experience level the previous year. Although that issue was not specifically addressed in the 1987 opinion, it is consistent with a 1990 opinion of this Office which held that language virtually identical to the above proviso should be interpreted broadly "[i]n view of the State's well known desire to attract and retain qualified teachers and compensate them accordingly." Ops. Att'y Gen. December 28, 1990. This conclusion is also consistent with the following rule: "...[W]here the construction of the statute has been uniform for many years in administrative practice, and has been acquiesced in by the General Assembly for a long period of time, such construc-

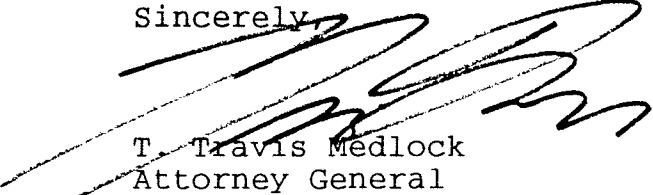
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tion is entitled to weight, and should not be overruled without cogent reasons." Etiwan Fertilizer Company v. South Carolina Tax Commission, 270 S.C. 354, 60 S.E.2d 682, 684 (1950).

In conclusion, the opinion of this Office is that teachers are entitled to, at least, the amount of local salary supplement paid to their experience level during the previous year even though those teachers are new to a school district. If you need other information, please let me know.

With kindest personal regards, I am

Sincerely,



T. Travis Medlock  
Attorney General

TTM:ppw