

The State of South Carolina



T. Travis Medlock
Attorney General

Attorney General

Opinion No 87-99

Pg 263

803-734-3970
Columbia 29211

December 9, 1987

The Honorable Charlie G. Williams
State Superintendent of Education
South Carolina Department of Education
Rutledge Building
Columbia, South Carolina 29201

Dear Dr. Williams:

You have requested the advice of this Office as to whether a school district that fails to maintain its local salary supplement at the 1986-87 level is subject to a cut-off in State funds. Current appropriations act provisions direct school districts to maintain local salary supplements per teacher at no less than their 1986-87 level. Act. 170, Part I, §30, §30.44, 1987; Ops. Atty Gen. (December 9, 1987). Although this provision does not contain an express provision providing for a cut-off of State funds to school districts not meeting this requirement, the Education Finance Act (EFA) provides that "[n]o State aid shall be given to any school district whose Board of Trustees fails to comply with the provisions of [the EFA]." §59-20-80 of the Code of Laws of South Carolina, 1976, as amended. Because the EFA requires school districts to maintain local salary supplements per teacher at no less than the 1983-84 level (§59-20-50(4)(b)), your question is whether the Appropriations Act provisions for maintaining supplements at the 1986-87 level are covered by the EFA fund cut-off provisions.

Under general rules of statutory construction, statutes addressing the same subject should be construed together and reconciled, if possible so as to render both operative. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970); Sutherland Statutory Construction, Vol. 2A, §51.02; Ops. Atty. Gen. (July 12, 1985). Here, a reasonable conclusion is that because the provision for maintaining the 1986-87 supplements is contained in other Appropriations Act provisions for increasing teachers salaries, the provision was intended to increase EFA requirements for maintaining local supplements at the 1983-84 level. Accordingly, this increase in the required level of local supplements should be covered by the EFA fund cut-off provisions because it amends the EFA figures covered by §59-20-80. Lewis; Sutherland; and Ops. Atty. Gen., supra. Moreover, even if these provisions were not covered by the

The Honorable Charlie G. Williams
December 9, 1987
Page 2

fund cut-off provisions, they would be required to be read into contracts between districts and their teachers and would be enforceable by affected teachers through the court system. Ops. Atty. Gen. (April 28, 1983). See also Ops. Atty. Gen. (May 16, 1983 and September 23, 1982). Therefore, school districts should comply with the above requirements for paying local supplements to avoid judicial enforcement of that provision and/or a cut-off in State funds.

Because the above provisions are mandatory, no release from those provisions can be provided by the State Board of Education or the State Department of Education. See Ops. Atty. Gen. (May 16, 1983 and September 23, 1982). The provision for waivers of local funding requirements in §12-35-1557 of the Code applies to the level of financial effort per pupil for non-capital programs rather than to individual components of those programs such as teachers' salaries. See Ops. Atty. Gen. (April 28, 1986).

You have also asked which funds are included in the term "state aid". This term is not defined in §59-20-80. Therefore, in order to determine the legislative intent, the statute should be construed in light of its intended purposes. Spartanburg Sanitary Sewer District v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258. Because the fund cut-off provisions apply to "State aid", and because these provisions are contained in the EFA which provides for "State aid" to the school districts thereunder (see §59-20-40(f)) and provides for reductions in that "State aid" under certain circumstances (see §59-20-40(f)), a reasonable conclusion is that the fund cut-off provisions of §59-20-80 apply only to State EFA money and not to State money provided under other programs.

Section 59-20-80 does not set a deadline for application of the cut-off in funds except that it does state that State aid shall not be provided to districts failing to comply. Therefore, I suggest that districts that are not in compliance with this requirement be allowed a reasonable period of time to bring themselves into compliance before the fund cut-off provisions are applied.

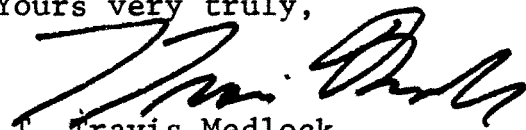
In conclusion, school districts are mandated to maintain local supplements to teachers salaries at no less than the 1986-87 level, and no authority is given to the State Board of Education or the State Department of Education to exempt school districts from that requirement. Districts failing to comply with this requirement are subject to the cut-off of State EFA funds under §59-20-80 of the Code and are also subject to judicial enforcement of these requirements by teachers entitled to the supplements. Districts

The Honorable Charlie G. Williams
December 9, 1987
Page 3

failing to comply with these requirements should be allowed a reasonable period of time to bring themselves into compliance before the fund cut-off provisions are applied.

If you have any questions or if I may be of additional assistance, please let me know.

Yours very truly,

A handwritten signature in black ink, appearing to read "T. Travis Medlock", written over the typed name.

T. Travis Medlock
Attorney General

TTM:srcj