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Office of the Attorney General

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May 2, 1985

Harry W. Davis, Jr.
Commissioner
South Carolina Department of
Youth Services
Post Office Box 7367
Columbia, South Carolina 29202

Dear Harry:

You have requested the opinion of this Office as to whether amendments to the Teacher Sick Leave Statute allow transfer of leave to the Department of Youth Services (DYS) by teachers who have accumulated leave by teaching in the various school districts of the state. See, Section 59-1-400 of the Code of Laws of South Carolina, 1976, as amended. The sick leave statute allows "[a]ll full time employees of public schools [to] accrue sick leave..." at a certain rate. "Sick leave accumulated...is transferable to any school district in the state by the employee with the earned leave." "Full time employee" is defined as "...any person employed in a position for which certification is required by the State Department of Education, or a person who has been employed in the school district for five months and works at least 30 hours per week."

"The Department of Youth Services is designated as a special school district..." the schools of which "...shall receive funds from the Department of Education under the same provisions as other public schools in the state." Section 20-7-3240 of the Code. Educational standards of DYS are required to meet various state standards including, but not limited to, teacher certification laws and regulations. Id. The employment status of instructional personnel is directed to be governed by the laws of the state regarding employment of instructional personnel and regulations of the Department of Education. Id.

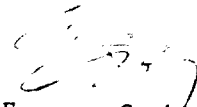
Because DYS is designed a special school district, because its schools are supported by public funds, and because its

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instructional personnel are required to be certified, DYS clearly appears to be a school district to which a teacher can transfer accumulated leave under Section 59-1-400. See also, Section 59-1-120 of the Code. But see Section 59-1-160. 1/ If you have any questions or if we may be of additional assistance, please let us know.


Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr:st

cc: Larry Vanderbilt, Esquire
Department of Youth Services
Larry Batson, Esquire
S.C. Department of Corrections

REVIEWED AND APPROVED:



Robert D. Cook
Executive Assistant for Opinions

1/ The definition of "school district" in Section 59-1-160 was adopted by the Legislature in sessions prior to those in which Sections 59-1-400 and 20-7-3240 were passed. Section 59-1-160 does not appear to limit the usage of this term in the latter statutes as they apply to DYS. See, Sutherland Statutory Construction, Vol. 24 §51.02.