

The State of South Carolina



Office of the Attorney General

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June 23, 1987

Honorable Charlie G. Williams
State Superintendent of Education
1429 Senate Street
Rutledge Building, Room 1006
Columbia, SC 29201

Dear Dr. Williams:

You have requested the advice of this Office as to whether teachers can transfer sick leave from the school districts in which they have been employed to the State Department of Education upon subsequent employment in that state agency. The controlling statute for sick leave for public school employees provides that the sick leave accumulated thereunder ". . . is transferrable to any school district in the state by the employee with the earned leave." (Emphasis added). Section 59-1-400 of the Code of Laws of South Carolina, 1976, as amended. The sick leave statute for state employees provides only for the transfer of sick leave "from one state agency to another." Section 8-11-40. Under South Carolina law, teachers are employees of school districts, and school districts are political subdivisions of the state rather than state agencies. See §59-19-90(2); Patrick v. Maybank, 198 S.C. 262, 17 S.E.2d 530, 534 (1941); Ops. Atty. Gen. February 23, 1983, No. 77-204, 1977, and December 18, 1974.

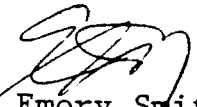
"Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning." South Carolina Department of Highways and Public Transportation v. Dickinson, 341 S.E.2d 134 (S.C. 1986). Accordingly, when §59-1-400 permits teachers to transfer sick leave only from school district to school district, and when §8-11-40 permits state employees to transfer leave only from state agency to state agency, neither statute authorizes teachers to transfer leave from the school districts in which they are employed to a state agency. See Ops. Atty. Gen. No. 77-204.

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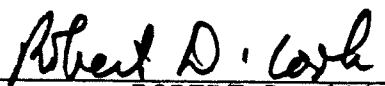
If you have any questions or if I may be of other assistance, please let me know.

Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESJr/rho

REVIEWED AND APPROVED:



ROBERT D. COOK
Executive Assistant for Opinions