

1982 WL 189291 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 14, 1982

\*1 Dr. Josef F. Stulac  
Director  
South Carolina Educator Improvement Task Force  
1602 Bull Street at Taylor  
Columbia, South Carolina 29201

Dear Dr. Stulac:

Thank you for your letter of May 7, 1982 requesting that this office review a previous opinion of this Office written by J. Emory Smith, Jr., Assistant Attorney General, on April 28, 1982. This opinion concluded that the plan of the Educator Improvement Task Force (Task Force) for implementation of the requirements of Act 187, Acts and Joint Resolutions of South Carolina, 1979 ([§ 59-26-10 et seq. of the Code of Laws of South Carolina \(1976\)](#)), as amended) was inconsistent with that law as to the timing of evaluations of teachers employed under provisional contracts.

After a review of the April 28 opinion and your letter regarding it, this Office concludes that the opinion is consistent with Act 187, and continues valid as stated. A teacher who failed to show adequate performance on the second set of observations or evaluations as proposed under the Task Force Plan and was not re-hired could claim that she was denied the opportunity for an additional period of remediation followed by further evaluation. Thus, adherence to this aspect of the Task Force plan risks the possibility of a successful legal challenge to it under Act 187, because the plan does not provide for three well-spaced evaluations between which remediation could be accomplished.

You have supplied information to this office regarding the Task Force plan which had not been provided to us when the April 28 1982 opinion was written. This information appears to support those additional points raised in that opinion concerning evaluation procedure; however, because of the opinion stated herein and in the April 28 opinion concerning the spacing of evaluations, no opinion is expressed now as to whether, under Act 187, the observations as proposed in the Task Force plan would be considered 'evaluations.' In addition, while the Task Force plan omits directions as to whether the same evaluators must be used for evaluations given after the first set, this does not make the plan invalid; but such directions would help to clarify that matter.

If we may be of further assistance, please let us know.

Very truly yours,

Frank K. Sloan  
Deputy Attorney General

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