

1982 WL 189464 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 15, 1982

*1 The Honorable Marshall B. Williams
Senator
District 13
Box 1094
Orangeburg, South Carolina 29115

Dear Senator Williams:

Thank you for your letter of October 7, 1982 in which you requested that this office advise you as to whether public school attendance supervisors are required to be paid on the basis of the State Minimum Salary Schedule provided for certified teachers in the Education Finance Act. See § 59-20-50(4)(a) of the Code of Laws of South Carolina (1962), as amended. A previous opinion of this office (February 12, 1981, by Paul S. League, Assistant Attorney General) concluded that school districts could only employ attendance supervisors who were certified by the State Board of Education. See § 59-65-230 of the Code.

The Finance Act does not define the term 'teacher' so the general definition for that term set out in § 59-1-130 should apply to that Act. According to that definition, a teacher is one who is employed to teach or supervise teaching. Although the above opinion of this office relied in part on language in § 59-65-230 which states that the certification of attendance supervisors should be determined in the same manner as are the qualifications for 'all other teachers', Mr. League noted that the attendance supervisors do not perform the duties of 'teachers'. See § 59-65-260. Thus, attendance supervisors do not appear to be teachers as defined in § 59-1-130, and they are not required to be paid the minimum salary schedule for teachers under the Finance Act. This conclusion is supported by the fact that the Legislature provides for salaries for the attendance supervisors in an appropriation that is separate from that for the Finance Act. See Act 466, § 28, page 310. See also, § 59-65-210 of the Code.

If you have further questions, please do not hesitate to contact this office.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

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