

1982 WL 189468 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 20, 1982

***1 Re: Modification of a Previous Opinion on the Trades and Industrial Education Certification Process**

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

Dear Dr. Williams:

In your letter dated July 16, 1982 to the Attorney General you inquired as to whether the successful completion of the Assessments of Performance in Teaching (APT) evaluation is required for trades and industrial (T & I) teachers during the first year of teaching as a condition for continued employment. In our response letter dated August 17, 1982, we concluded that (1) the T & I teacher must be evaluated at least three times in the first year; (2) that the T & I teacher must be evaluated by an instrument which accurately evaluates the performance of the T & I teacher.

It continues to be our opinion that the law requires that the T & I teacher like the provisional teacher must be evaluated at least three (3) times in the first year and the four (4) subsequent years or until a continuing contract is achieved. Arguably, however, there is some latitude in the law for not requiring a strict adherence to the application of the APT as used with the provisional contract teacher, since the law clearly exempts the T & I teacher from a provisional contract period and since the T & I teacher unlike the regular teacher is allowed time after being employed to complete education course work.

It also continues to be our opinion that the T & I teacher must be evaluated by an instrument which accurately evaluates the performance of the T & I teacher. It was our previous opinion that in order for the APT to accurately reflect the performance of the T & I teacher the application of the instrument and/or the scoring must be modified. This opinion was based on information contained in your letter that the T & I teacher does not typically complete any professional education course work until he/she actually begins the first year of teaching and therefore the T & I teacher would not be prepared in certain areas evaluated by the APT instrument. It has now been brought to our attention through discussion with members of the Department that the APT is validated for the T & I teacher and that the validation studies have demonstrated that the APT instrument is an accurate indicator of the performance level of the T & I teacher. Assuming this information is correct, it is our opinion that the APT instrument in its present form is a proper evaluation tool for the T & I teacher and our previous opinion to the contrary is so modified. If an inequity should arise from the use of the APT instrument in evaluating the T & I teacher, the problem could be handled by some modified use or application of the APT instrument.

Because of questions raised in the discussion with members of the Department, a comment should be made as to whether the T & I teacher must pass the APT in the first year in order to continue employment. [Section 59-26-40, S. C. Code](#) of Laws of South Carolina, 1976, as amended, allows the T & I teacher up to five (5) years to successfully complete the performance evaluations as required of all provisional teachers and achieve a continuing contract. This section does not prohibit the dismissal of the T & I teacher during the five (5) year period in which a continuing contract can be obtained. However, it would be advisable, if dismissing a T & I teacher with less than five (5) years of teaching experience, to be aware of this provision and to specify, if possible, grounds other than poor performance on the APT as reasons for the dismissal.

*2 In conclusion, it is the opinion of this office that the T & I teacher must be evaluated at least three (3) times in the first year through the use of the APT instrument which has been validated for the T & I teacher and is an accurate indicator of the performance level of the T & I teacher.

Sincerely,

B. J. Willoughby
Assistant Attorney General

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