

1979 WL 42872 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 19, 1979

**\*1 RE: Payment of Retroactive Increases**

Mr. Joseph A. Mack  
Deputy Director  
State Budget and Control Board  
Personnel Division  
1205 Pendleton Street  
Columbia, South Carolina 29201

Dear Mr. Mack:

You have recently asked the opinion of this Office as to whether it is permissible to pay a retroactive increase involving a prior fiscal year to an employee paid in part or in whole by federal funds.

It is the opinion of this Office that in the absence of a statute providing for the reopening of the accounts and records of state agencies, there is no authority to reopen such accounts. [Section 11-9-80 of the 1976 Code](#) of Laws, as amended, provides that State records and accounts shall be closed on June thirtieth, the end of the fiscal year.

On March 16, 1979, Ms. Mary Choate of the South Carolina CETA Consortium, informed me that the employee in question is paid by CETA funds. Both federal law and state law provide that an employee paid by federal funds shall have the same benefits and conditions of employment as other employees. See, The Comprehensive Employment and Training Act of 1973, 29 U.S.C. § 848(a)(2)(c) and § 848(a)(4). Section 131 of the 1978 Acts and Joint Resolutions, No. 644, at page 2204 provides in part: That the expenditures of funds by agencies of the State Government from sources other than General Fund appropriations shall be subject to the same limitations and provisions of law applicable to the expenditure of appropriated funds with respect to salaries, wages or other compensation, travel expense, and other allowances or benefits for employees. (Emphasis added).

Since a state employee would be entitled to receive a pay increase during the current fiscal year, based on an upward reclassification of his position, a similarly situated federally funded employee would be entitled to receive the pay increase for the same period of time. To allow the federally funded employee to recover pay increases based on the federal fiscal year which ends September thirtieth, would allow the federally funded employee different benefits or conditions of employment.

Accordingly, a federally funded employee who is entitled to a retroactive pay increase shall receive the increase retroactively to the first day of the current state fiscal year if the date of the reclassification occurred prior to or on the first day of the current fiscal year.

Sincerely,

Barbara J. Hamilton  
State Attorney

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