

1979 WL 42895 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1979

\*1 William H. Seals, Esquire  
208 West Dozier Street  
P. O. Box 1041  
Marion, S.C. 29571

Dear Mr. Seals:

This is in response to your request for an Opinion from this office whether a teacher placed in a public teaching position under the Comprehensive Employment and Training Act (CETA) is covered under the South Carolina Teachers Employment and Dismissal Act, § 59-25-40 et seq.

Under the facts provided, the teacher is an employee of CETA and not the school district and CETA funds provide most of the teachers salary. There is no contract between the teacher and the school district, the only contract being between CETA and the school district. Said contract does not require reemployment of the teacher and specifically prohibits employment of this teacher under the CETA Program for a period in excess of twelve months.

A teacher, as defined in the Teacher Dismissal Act, is 'any person who is employed either full time or part-time by any school district either to teach or supervise teaching.' § 59-1-130. § 59-25-410 requires that several school districts to decide and notify in writing the teachers, as above defined, in their employ (emphasis added) concerning their employment for the ensuing year. Clearly, if this teacher was 'in the employ' of your school district, all of the provisions concerning employment and dismissal would be applicable. However, there are several important differences between this employee and teachers under contracts with your district. This employee must qualify under the CETA Act before she can be employed. There is no contract between the school district and the employee which gives rise to 'a reasonable expectation of continued employment,' since by the terms of the CETA Act, this person cannot be reemployed by CETA after being employed for a period of twelve months. Furthermore, the contract between the school district and CETA poses no obligation upon the school district to reemploy this teacher, although the Federal Act encourages such action. The CETA Act itself has its own hearing process provided for CETA employees who are dismissed or terminated. See 25 C.F.R. § 98.26 et seq.

Although there is no case law or specific authority to the point, it is my opinion that this employee is not entitled to any rights under the South Carolina Teachers Employment and Dismissal Act because she is not an employee of the school district and has no contract with the school district. However, I would recommend that the teacher be notified by April 15th of your intention not to employ her for the ensuing year. In essence, your decision to be made by April 15th, is not a decision to reemploy this teacher, but is a decision to initially employ the teacher by the school district. I have talked with Roger Washington, Staff Attorney of the CETA Consortium, and he is in complete agreement with this Opinion.

If I can be of further assistance to you, please do not hesitate to contact me.

\*2 With warm personal regards, I remain,  
Very truly yours,

Frank H. DuRant  
Assistant Attorney General

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