

1977 WL 37440 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 7, 1977

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Deputy Superintendent
Department of Education

QUESTION

Under the terms of the School Finance Act, when are the limitations of continuing a pupil in membership?

STATUTE

Section 4, paragraph (1)(a) of the South Carolina Educational Finance Act of 1977, Act No. 163, Acts and Joint Resolutions of 1977.

DISCUSSION

The meaning of the term 'average daily membership' or 'ADM' has particular importance in the Finance Act because a district's total monetary entitlement is based on the concept. As stated in Section 4, paragraph (1)(d), the amount for each district is the product of ADM in each student classification and the weighing factor specified for that classification.

Average daily membership under the terms of the Act may be defined as the total of daily membership over the one hundred thirty-five day funding period in a particular classification, i. e., speech handicapped pupils, divided by the number of days in the funding period. See Section 4, paragraph (1)(a) of the Act and numerous applications of the adjectives 'average daily' in cases collected at 4A Words and Phrases, pages 706 and 707. Some indication of what limitations on membership are proper can be gained from an examination of the other possible bases of computation which were considered and rejected by the Committee which helped draft the Act. See the ?? at page 16 of the Report of the Governor's Committee for the ?? of Educational Finance. Among the criteria specifically rejected well enrollment and average daily attendance. (Both of these criteria have a well defined and commonly accepted meaning. Once a child is enrolled for a certain number of days, i. e., thirty-five, he is counted as enrolled for the balance of the school year. Average daily attendance is the average of daily attendance totals over a particular period.)

The term average daily membership was apparently left undefined purposely. The Department of Education is given specific authority to promulgate regulations for the computation of average daily membership. There are no limitations on the number of days in attendance before a student should be added or dropped from membership in a classification except, of course, as to reasonableness.

CONCLUSION

There are no limitations of continuing a pupil in membership for purposes of ADM expressed in the Act. The Department of Education is given specific authority to promulgate regulations which will set reasonable limitations.

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