

1979 WL 42711 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 14, 1979

***1 RE: Federal Position Agreements**

Peden B. McLeod
Chairman
Joint Appropriations Legislative Review Committee
Room 505
Solomon Blatt Office Building
Columbia, South Carolina 29202

Dear Mr. McLeod:

You have recently asked this Office to review the proposed Federal Position Agreement which you would like to have all new employees hired after July 1, 1979, sign acknowledging that their employment would continue so long as federal funds support their respective positions. I see no problem with this plan insofar as new state employees are concerned.

There may be a problem with instituting the policy of terminating present state employees when federal funds no longer support their positions. Since there has been no consistent statement given to all present federally funded state employees, it is conceivable that those employees may have been assured that they would be treated in the same manner as state supported employees. If this has happened, equitable legal doctrines as well as state law may prevent the agency from subsequently taking a different position.

Section 131 of Act No. 644 of the 1978 Acts and Joint Resolutions, provides in part,
That the expenditure 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.

It can be inferred that the General Assembly intended that all state employees are to have the same benefits and conditions of employment regardless of the source of funds which support their positions. Thus, if state funded employees can compete in a reduction in force process when staff cut-backs must be made, then federally funded state employees may be entitled to compete when the same circumstance arises.

Sincerely,

Barbara J. Hamilton
State Attorney

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