

1978 S.C. Op. Att'y. Gen. 124 (S.C.A.G.), 1978 S.C. Op. Att'y. Gen. No. 78-95, 1978 WL 22574

Office of the Attorney General

State of South Carolina

Opinion No. 78-95

May 15, 1978

***1 SUBJECT: The meaning of ‘excess over twenty-five percent total instructional staff’ as used in Section 4(2) of the Education Finance Act of 1977.**

The incentive bonus to school districts for employing instructional staff members with advanced degrees is based on the number of such employees in excess of twenty-five percent of the total instructional staff and is not based on the total number of instructional staff members with advanced degrees.

TO: Mr. Ray W. Burnett
Deputy Superintendent
Department of Education

QUESTION:

What is the proper interpretation of ‘excess over twenty-five percent of total instruction staff’ as used in Section 4(2) of the Education Finance Act?

STATUTE:

[Section 59–20–40\(2\) of the 1976 Code](#), (Section 4(2) of the South Carolina Education Finance Act of 1977).

DISCUSSION:

The proviso in question reads as follows:

‘(2) Incentive proviso for strengthening the instruction staff—Each district employing instructional staff members with Masters Degrees or higher certification in excess of twenty-five percent of the total instructional staff shall be provided from state funds for each such instructional staff member an amount equal to the state portion of the state-local percentage for the foundation program for the school district as provided in this act multiplied by two thousand dollars.’

The incentive bonus for a district meeting the percentage requirement is a fixed sum ‘for each such instructional staff member’. (Emphasis added) The intention of the Legislature is, of course, paramount. See [City of Spartanburg v. Leonard](#), 180 S. C. 491, 186 S. E. 395 and other cases cited at 17 West's South Carolina Digest, *Statutes*, § 180. By using the word ‘such’, the Legislature has indicated its intention to grant the bonus to the district based on the number of advanced degree instructional staff members in excess of twenty-five percent of the total instructional staff. The Legislature did not, in our judgment, intend to base the bonus on the total number of advanced degree instructional staff members.

The following example may be helpful: Assume that there are one hundred total members of a district's instructional staff and that thirty-five of them have advanced degrees. The incentive bonus is based on ten, i. e., thirty-five exceeds twenty-five percent of one hundred by ten. The bonus is not based on thirty-five.

CONCLUSION:

The incentive bonus to school districts for employing instructional staff members with advanced degrees is based on the number of such employees in excess of twenty-five percent of the total instructional staff and is not based on the total number of instructional staff members with advanced degrees.

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