

1978 S.C. Op. Atty. Gen. 154 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-120, 1978 WL 22589

Office of the Attorney General

State of South Carolina

Opinion No. 78-120

June 20, 1978

***1 SUBJECT: Minimum Salaries For Certain School Teachers And Administrators Under The Education Finance Act.** No teacher or administrator can be paid less total salary during the first year of implementation of the Finance Act than they received for the year prior to implementation of the Act plus the normal incremental increase the teacher would have been entitled to by virtue of his certification and experience.

To: Mr. Ray Burnette
Deputy Superintendent
Department of Education

QUESTION:

What is the minimum salary to be paid certain teachers or administrators during the first year of implementation of the Education Finance Act?

STATUTE:

[Section 59–20–50\(4\)\(a\) of the Code](#), (Section 5(4)(a) of the Education Finance Act).

DISCUSSION:

The Education Finance Act has substantially changed the method of funding salaries of school teachers and administrators. Prior to implementation of the Act, state aid for teachers' salaries was based primarily on positions 'earned' by the number of students in the district. The state funded one position for every twenty-six students, district supplements made up the balance of the salaries. Under the terms of the Finance Act, teachers' salaries and administrators' salaries are funded as an integral part of the foundation program and are, therefore, a portion of the program expense accounted for in the base student cost. Although it does not directly fund positions, the Finance Act exercises control over the minimum salary to be paid any given teacher or administrator. The Act provides for a minimum salary schedule which takes into account the certification and experience of the teacher. See Section 5(4)(b) of the Act. The Act also provides for a phasing of salaries to the minimum schedule. See Section 5(4)(c).

The Finance Act recognizes the fact that certain teachers and administrators would receive a higher salary under existing district salary schedules than they would receive under the provisions of Sections 5(4)(b) and (c) of the Act. Section 5(4)(a) of the Act contains the following sentence, the meaning of which is in question: 'No teacher or administrator employed in the same position, over the same time period, shall receive less total salary, including any normal incremental increase, than that teacher or administrator received for the fiscal year prior to the implementation of this Act.'

An example is helpful in discussing the question involved. Assume that during the 1977–1978 school year, the year prior to implementation of the Finance Act, a first-year teacher in District X earned a total salary (state aid and local

supplement) of \$8,850. Also assume that in District X, the normal incremental increase for that teacher's class is \$200. (Put another way, a second-year teacher in District X with the same certification was paid a total salary of \$9,050.) Assume further, that under Sections 5(4)(b) and (c) of the Finance Act, the required salary for second-year teachers with the same certification is \$8,943 for the 1978–1979 school year. The alternatives are whether the teacher, during the first year of implementation of the Act, is to be paid a minimum salary of \$8,943 or \$9,050.

*2 In our judgment, the teacher must be salaried at \$9,050 for the 1978–1979 school year. The phrase ‘total salary, including any normal incremental increase’, when given its ordinary meaning, insures that no teacher or administrator with the same duties will receive less total salary because of the implementation of the Finance Act than they would have received under the applicable district salary schedule had the Act not been passed. The word ‘include’ means to ‘take in or comprise as a part of a larger aggregate or principle.’ See Webster's New Collegiate Dictionary, (1973). The term ‘including’, given its ordinary meaning, is a word of enlargement and not of limitation. See [People v. Western Air Lines](#), 42 C. 2d 621, 268 P. 2d 723, cited at 20A Words and Phrases at 144.

CONCLUSION:

No teacher or administrator can be paid less total salary during the first year of implementation of the Finance Act than they received for the year prior to implementation of the Act plus the normal incremental increase the teacher would have been entitled to by virtue of his certification and experience.

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