

1978 WL 35024 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 8, 1978

*1 Dr. Charlie D. Williams
Deputy Superintendent
Division of Instruction
Department of Education
Rutledge Building
1429 Senate Street
Columbia, SC 29201

Dear Dr. Williams:

You have asked for an opinion from this Office concerning the meaning of Part I, Section 31 of the 1978-79 General Appropriation Bill for the State Department of Education which states:

Provided, Further That, the temporary or emergency certificates issued to teachers for the 1977-78 school year shall remain valid for the 1978-79 school year.

The State Board of Education pursuant to [§ 59-25-110 of the Code of Laws of South Carolina \(1976\)](#) has the authority to ‘. . . formulate and administer a system for the examination and certification of teachers.’ R 43-60-R 43-63 of the Rules and Regulations of the State Board of Education, Code of Laws of South Carolina (1976), as amended, provides for three types of substandard teaching certificates: (1) temporary certificates; (2) emergency permits; and (3) out-of-field permits. In order to obtain an out-of-field permit, which is valid for one academic year, the applicant must have a valid South Carolina teaching credential and must meet the appropriate requirements set forth for the area in which he/she wishes to qualify.

While the statutory provision for temporary or emergency certificates does not specifically include out-of-field permits, a reasonable construction of the amending statute would include this class of certificate. ‘It is said to be a well established principle of statutory interpretation that the law favors rational and sensible construction.’ [Sutherland, Statutory Construction](#), § 45.12.

There are over 1,000 teachers in South Carolina who had out-of-field permits for the academic year 1977-78. These permits allowed schools throughout the State to employ teachers not certified in their teaching area when they are unable to hire certified field area teachers. To exclude this group of teachers would create a void which many schools would be unable to fill. The South Carolina Supreme Court stated in [Bolton v. Doe, 266 S.C. 344 at 349, 223 S.E. 2d 187 at 189 \(1976\)](#) that:

A statute is not to be read in an atmosphere of sterility, but in the context of what actually happens when human beings go about the fulfillment of its purposes.

It is therefore the opinion of this Office that the out-of-field permits, originally issued for the calendar year 1977-78 shall remain valid for the 1978-79 school year.

Secondly, you have asked whether any State Board of Education action would be required to extend the validity of the temporary certificates. There is no legal requirement that the State Board of Education take any further action in order

to renew these certificates or permits for the 1978-79 year. However, it is suggested that the State Board of Education notify all the school districts and the individual certificate or permit holders of the automatic one year renewal of their certificates or permits. The school districts need to be aware that their teachers are available for employment during the academic year 1978-79 and teachers themselves need to know that they are qualified to teach during this calendar year.

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

With warm personal regards,
Sincerely,

Frank H. DuRant
Assistant Attorney General

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