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REPLY TO: Laura Crumpler

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May 5, 1998



MICHAEL F EASLEY  
ATTORNEY GENERAL

Douglas S Punger  
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Re Advisory Opinion, Leaves of Absence for Principals Leaving School System to Work in Charter Schools, G S § 115C-238 29F(e)(3)

Dear Mr Punger

The Charter School Act, G S § 115C-238 29A *et seq* , requires local school administrative units to grant a teacher's timely request for a leave of absence to teach in a charter school G S § 115C-238 29F(e)(3) You have written to inquire whether, in the opinion of this office, the term "teacher" as used G S § 115C-238.29F(e)(3) includes school personnel other than the classroom teachers It is our opinion that the General Assembly intended the term "teacher" as used in G S. § 115C-238 29F(e)(3) to include only classroom teachers Therefore, other school personnel, such as principals, are not entitled to the same leaves of absence granted teachers under this section

G S 115C-238 29F(e)(3) provides

If a teacher employed by a local school administrative unit makes a written request for an extended leave of absence to teach at a charter school, the local school administrative unit shall grant the leave The local school administrative unit shall grant a leave for any number of years requested by the teacher, and shall extend the leave at the teacher's request For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave or extension of leave be made up to 45 days before the teacher would otherwise have to report for duty For subsequent years, the local school administrative unit may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty A teacher who has career status under G.S 115C-325 prior to receiving an extended leave of absence to teach at a charter

school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G S 115C-325(e)(2)

The cardinal rule of statutory construction is that a statute must be construed to effectuate the intent of the legislature. *State v Hart*, 287 N C. 76, 213 S E.2d 291 (1975). In order to discern the legislative intent, courts look to the language of the statute, its spirit and its purpose. *State ex rel. North Carolina Milk Com v. National Food Stores, Inc*, 270 N C, 323, 154 S E 2d 548 (1967). The intent of the legislature must be found from the language of the act, its legislative history and the circumstances surrounding its adoption. *Id.* Words are generally given their ordinary meaning, and courts will construe words in accordance with their meaning at the time of enactment. *Southern Bell Tel & Tel Co v Clayton*, 266 N C 687, 147 S E 2d 195 (1966)

G S § 115C-238 29F(e)(3) refers only to "teachers", not once is the term "principal" or "supervisor" or "school administrator" used in connection with the leave-of-absence provisions. To be sure, the leave-of-absence provisions are found in paragraph 3 of G S. 115C-238 29F(e) entitled "Employees" and some provisions of that subsection are applicable to all school personnel. *E g*, G S. § 115C-238 29F(e)(2) ("No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.") However, the General Assembly specifically limited the right to take a leave of absence to a particular subgroup of school employees, *i e*, teachers. The General Assembly's ability to distinguish between "school employees" in general and "teachers" in particular is further illustrated by G S. § 115C-238 29F(e)(1). That subsection specifies the percentage of "teachers" in various grades who must be certified. Insofar as the term "teacher" as used in G S § 115C-238 29F(e)(2) clearly means "classroom teacher," that meaning should be equally applicable to the same term as used in G S § 115C-238 29F(e)(3). *H B S Contractors, Inc v Cumberland County Bd of Educ*, 122 N C App 49, 468 S E 2d 517, 521 (1996)(a word in a statute should be interpreted in the context of and in reference to the meaning of other words in the statute with which it is associated)

Although the definition of "teacher" set forth in G S 115C-325 ("The Teacher Tenure Act") has been construed to encompass school employees other than classroom teachers, including principals, *see Warren v Buncombe County Board of Education*, 80 N C App 656, 343 S E 2d 225 (1986), that definition is inapplicable to the Charter School Law. G S § 115C-238 29E(f) specifically provides that, "Except as

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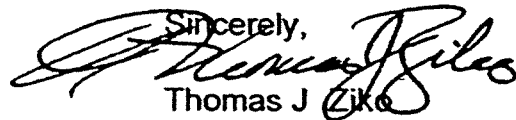
provided in this Part and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit." There is nothing in the Charter School Act which would indicate that the General Assembly intended to import the definition of "teacher" as it appears in G S § 115C-325(a)(6) into the Charter School Act. Absent such indicators, it is our opinion that the legislature intended the term "teacher" as used in the Charter School Act to mean a classroom teacher.

It is also notable that in sections of Chapter 115C other than the Teacher Tenure Act, the General Assembly has clearly distinguished between teachers and principals in terms of their duties, qualifications, and rights. E.g., Articles 19 and 20 of Chapter 115C. Indeed, since 1995, no newly employed school administrator is deemed to be a "teacher" even for purposes of the Teacher Tenure Act. See G S 115C-287.1. Thus, at the time the Charter School Act was adopted in 1996, the term "teacher" as used in connection with teacher tenure no longer was considered as all-inclusive as it once had been. Further amendments in the 1997 legislative session defining "career teacher," "career administrator," and "school administrator" evidence a legislative intent that there be two distinct classifications of these school employees. See G S 115C-325 (1997).


In summary, G.S. § 115C-238 29F(e)(3) only provides for a leave of absence for "teachers" who want to "teach" at a charter school. In our opinion, the word "teacher" as used in that section is unambiguous and there is nothing that would evidence a legislative intent to give that term a broader definition.

We hope this adequately addresses your inquiry. Should you have further questions or concerns, please do not hesitate to contact us.

Sincerely,



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Special Deputy Attorney General



Laura E. Crumpler  
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