

NC Attorney General Opinions

Reporter

2000 N.C. AG LEXIS 10 *

[NO NUMBER IN ORIGINAL]

June 30, 2000

Core Terms

was, jobhunter, candidate, personnel, referral, recruitment, hire, skill

Syllabus

[*1]

Advisory Opinion regarding [G.S. § 126-18](#); Employment Referral Incentive Awards

Request By: Mr. Ronald G. Penny

State Personnel Director

Office of State Personnel

116 West Jones Street

Raleigh, NC 27603-8004

Question

[NO QUESTION IN ORIGINAL]

Opinion By: Ann Reed, Senior Deputy Attorney General; Lars Nance, Special Deputy Attorney General

Opinion

In your letter of May 26, 2000, you ask whether [G.S. § 126-18](#) is violated by a "Referral Incentive Award" payment to current state employees who identify prospective candidates for recruitment into positions which appear on an Office of State Personnel approved list of positions. These positions are critical to the State either in terms of

mission or skills or require skills which make recruitment for the position difficult. The prospective candidate would have to be hired by the State and remain a State employee for at least one year in order for an award to be paid under the program.

You reference an opinion given by this office dated November 4, 1988, as being related to your question. This opinion states that the State could pay a search firm to help locate candidates for difficult to fill positions so long as the State did not pay any fee that was charged by the firm to [*2] the individual jobhunter who was employed by the State. Opinion of Attorney General to Mr. Richard V. Lee, State Personnel Director, 58 N.C. A.G. 90 (1988). The opinion also stated: "The prohibition on the State's paying the employment agency's fee must be read in context to apply to the kind of fee for the kind of services which the statute seeks to regulate--fees for obtaining employment for jobhunters, not fees for finding candidates or employees for agencies with vacant positions."

The opinion noted that the purpose of the statute was to prohibit the receipt of compensation by nonlicensed individuals or employment agencies if the fee was being charged to the individual for *assisting a jobhunter* in obtaining employment with the State. The opinion concluded that the State could pay a fee *for assistance given to the State* in locating and/or hiring qualified individuals for hard-to-fill positions, even if the fee was in part based on the salary of the person employed, so long as the fee was not a fee that the jobhunter was required to pay in connection with his recruitment or hiring into State employment.

Given the interpretation of the statute [*3] in the November 4, 1988 opinion, it is our opinion that the "Referral Incentive Award" program described in your letter and its attachments would not violate [G.S. 126-18](#) because it does not allow the referring State employee to receive any sort of compensation from any other source related to the referral. Furthermore, the program does not have any provision in it that would require or allow the State to pay any kind of fee that might be charged by a licensed referral source to the jobhunter.

We trust this fully answers your inquiry. If you have further questions, please do not hesitate to let us know.

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