



Office of State Human Resources

ROY COOPER

Governor

BARBARA GIBSON

Director, State Human Resources

August 5, 2019

VIA EMAIL

HARD COPY VIA U.S. MAIL

Philip R. Thomas
Acting General Counsel
Department of Public Instruction
301 N. Wilmington Street
Raleigh, NC 27601

Dear Mr. Thomas:

This letter is regarding the recent decision by the North Carolina Virtual Public School (“NCVPS”) and the Department of Public Instruction (“DPI”) to mandate a thirty-one-day break from employment for NCVPS teachers to comply with a North Carolina statute governing Temporary Solutions policy. The Office of State Human Resources has considered a range of possible solutions to ensure continuation of NCVPS instruction for the fall semester and believe that your department can hire affected teachers on personal service contracts.

We have discussed this proposal with State Purchase and Contract to ensure its feasibility and have prepared a personal service contract template for DPI to use for its NCVPS educators. While securing contracts for the 220 teachers in time for the start of the school year will be a challenge, we commit to recruiting assistance from other agencies to help achieve this goal. This proposal is the best approach for ensuring NCVPS instruction continues.

We are concerned about the long-term success for this program. While this proposal will allow these teachers to continue teaching during the fall semester, we recommend that NCVPS and DPI establish a more permanent employment plan to ensure compliance with state law.

By way of background I will recount the circumstances that led to this point and outline how this crisis should have been averted earlier this year.

As you know, DPI has chosen to employ the NCVPS teachers as temporary employees. This means that Temporary Solutions manages their payroll. N.C. Gen. Stat. § 126-6.3, which governs Temporary Solutions, requires that temporary employees take one month off from their duties and pay once every twelve (12) months. DPI chose not to observe this rule.

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However, while DPI was required in 2015 to use Temporary Solutions for payroll administration for its temporary staff, that is no longer the case. As a Council of State agency, it may pursue other options, including any contract methods within its authority, like the one outlined above, that could better accommodate its needs and those of its staff.

Beginning April 30, Joe Gilroy, Director of Temporary Solutions, and staff from the Office of State Human Resources, including legal counsel, contacted your Department, its legal counsel and NCVPS staff regarding these administrative concerns. We discussed ways that your Department could avoid laying off teachers and disrupting instruction for North Carolina students and schools that depend on NCVPS. But we understand that no change was made, and that by Tuesday, July 30, 220 teachers had been notified that they had to take a month-long break in the fall even though they were committed to teaching classes.

While these circumstances are regrettable, we believe we can put our resources to work to solve this immediate problem. We look forward to working together with your administration and the State Board of Education to find a long-term solution.

Professional regards,



Lars Nance
General Counsel
Office of State Human Resources

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