



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

July 31, 2024

Robert H. Compton, Esq.  
Attorney, Quitman School District  
Post Office Box 845  
Meridian, Mississippi 39302-0845

Re: Retroactive Employee Compensation Due to Misidentification of Number  
of Days Employed

Dear Mr. Compton:

The Office of the Attorney General has received your request for an official opinion.

### **Background**

You provide in your request that during the 2023-2024 school year, the Quitman School District had an employee who was employed under contract as a licensed employee. The contract of employment was based upon the “years of employment verification” received from previous school districts. One of the school districts misidentified the number of days employed. That school district has now corrected its verification to actually show a percentage of time employed that would entitle the employee to an extra year of prior experience under the Quitman School District’s existing teacher salary scale.

### **Question Presented**

May the school district amend the teacher’s contract to apply retroactively the existing teacher salary scale to include the extra year of actual experience, so as to make the employee whole (i.e., compensate her for the difference between the contract amount received and the amount that would have been paid had the prior school district submitted the correct verification for the missing school year)?

### **Brief Response**

If the school district finds, consistent with the facts and spread upon the minutes, that the employee was underpaid due to an administrative error, the employee may be paid the difference between the salary she was paid and the salary the district finds that she is owed. For additional guidance regarding this matter, we recommend that you contact the Office of the State Auditor.

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### Applicable Law and Discussion

Section 96 of the Mississippi Constitution “strictly forbids payment of ‘retroactive raises’ to any public employee, unless such payment is clearly shown to be ‘back pay’ previously due, but unpaid because of administrative error.” MS AG Op., *Brown* at \*1 (July 7, 2017) (internal citations omitted).

Thus, the Quitman School District would have to make the requisite finding, consistent with the facts and spread upon the minutes, that the prior school district’s misidentification of the number of days the teacher was employed was an “administrative error” and that “back pay” is owed to the employee. MS AG Op., *Mosley* at \*2 n.1 (Feb. 21, 2014); *see also* MS AG Op., *Sturgeon* at \*2 (Aug. 14, 2006) (“[W]hether the employee was underpaid due to an administrative error [is a] factual question[] which must be resolved by the School Board after a review of the Board minutes and the recommendations of the superintendent.”). It is the recommendation of this office that you contact the Office of the State Auditor for guidance in making this factual determination.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Abigail C. Overby

Abigail C. Overby

Special Assistant Attorney General

OFFICIAL OPINION