



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

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ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 85-17

January 22, 1985

Mr. Mahlon A. Martin
Director
Dept. of Finance and Administration
P.O. Box 3278
Little Rock, AR 72203

Dear Mr. Martin:

This is in response to your opinion request wherein you posed the following inquiry:

Are employees who are employed as classified state employees prior to July 1, 1983, and who were subsequently promoted, required to serve two years from the date of promotion before they may be awarded a normal step increase?

Act 68 of 1983 requires an affirmative answer to the question you have posed.

Act 68 of 1983, which amended Section 5 of Act 199 of 1969, as amended, Ark. Stat. Ann. §12-3205 (Supp. 1983), provides as follows:

Persons compensated under the provisions of this section prior to July 1, 1983 shall not be eligible for a step increase except upon completion of at least one additional year of service above that required by law.

The period of service "required by law" is one year. Act 199 of 1969; Act 68 of 1983. Additionally, Act 199 of 1969, as amended, requires completion of one year for award of a step increase following promotion to a higher grade. Ark. Stat. Ann. §12-3207(2) (Repl. 1979).

Your opinion request also provides the following example:

If a promoted employee has already served twenty months without a normal step increase prior to the time of promotion, would the employee still be required to serve two additional years following promotion?

The effect of the 1983 amendment to Act 199 of 1969 is simply to increase from one year to two years the amount of time an employee must serve before receiving a step increase. To reach your question, attention must be focused on the application of both Act 199, as amended, and Act 68. For this, we will use a variation of the example you have provided.

Let us assume that an employee receives an anniversary step increase to Grade 18-3 on March 1, 1983. Under Act 68 of 1983, on July 1, 1983, that employee's position is reclassified to pay \$16,250. Except for the substantive provisions of Act 68, Act 199 of 1969 would have entitled that person to a step increase to Grade 18-4 on March 1, 1984. According to Act 68, however, that employee is not entitled to a step increase until March 1, 1985. In the interim, however, that employee receives a promotion on November 1, 1984. This employee's anniversary date becomes November 1. Your question is whether that employee must again begin recalculating a two year period before being eligible for a step increase in the promotion grade level.

Act 68 of 1983 requires an affirmative conclusion. Act 68 provides that a person employed prior to July 1, 1983, not be eligible for a step increase "except upon completion of at least one additional year of service above that required by law."

Act 199 of 1969, as amended, now controls the situation inasmuch as that Act requires a year of service following a promotion prior to step increase eligibility. Thus, the employee cannot be considered for a step increase in the promoted grade level for an "additional year" or November 1, 1986. In this manner, the employee has fulfilled the "additional year" mandate dictated by Act 68 and the one year minimum stipulated in Act 199.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General C.R. McNair III.

Sincerely,


STEVE CLARK
Attorney General

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