

1976 S.C. Op. Atty. Gen. 309 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4449, 1976 WL 23066

Office of the Attorney General

State of South Carolina

Opinion No. 4449

September 16, 1976

*1 Mr. John Scott

Director

State Workmen's Compensation Fund

1026 Sumter Street

Columbia, SC 29201

Dear Mr. Scott:

You inquired whether employees of the South Carolina Bar are covered by the State Workmen's Compensation Fund (State Fund). I am advised that a former employee of the State Bar alleges that she sustained an accidental injury in the course of her employment by the Bar. In a letter dated August 13, 1976, to the South Carolina Industrial Commission, of which you received a copy, Vernon E. Sumwalt, Esquire, counsel for the South Carolina Bar in the matter, expressed the belief that the Bar would be insured under the State Fund under coverage provided to the Supreme Court. You confirmed that the State Fund currently insures the Supreme Court for workmen's compensation risks.

While the matter is not completely free from doubt, it is the opinion of the undersigned that State Bar employees are covered by the State Fund.

Code § 72-456, 1962, states that the coverage of the State Fund ‘. . . shall apply to all officers and employees of the State . . .’

The Attorney General has previously expressed the opinion that the South Carolina Bar is an agency of the State of South Carolina. That opinion noted that the Bar is created pursuant to a Rule of the Supreme Court of South Carolina, issued in its inherent power on February 14, 1975, having among its stated purposes ‘to improve the administration of justice throughout the State.’ — Op. Att’y Gen. —, March 26, 1975.

By Act No. 244 of 1967 (§ 56-97, Code of Laws, 1962, as amended) the Supreme Court was authorized to provide for the ‘organizing and governing of an association to be known as the South Carolina State Bar which shall be composed of the attorneys at law of the State, and which shall act as an administrative agency of the Supreme Court of South Carolina for the purpose of improving the administration of justice . . .’ (emphasis added).

Code § 56-96 expressly recognizes and declares the ‘inherent power of the Supreme Court with respect to regulating the practice of law . . .’ and states that the authority conferred by the above-quoted § 56-97 is cumulative to such power. The quoted statutory provision does, however, indicate the General Assembly's view that the State Bar's predecessor organization was to act as an administrative agency of the Supreme Court.¹

Attention is also directed to Code § 56-97.1, as amended, which states in part as follows:

No person shall receive any compensation from the State Bar Fund for service performed in the administration of the South Carolina State Bar if at the time of the performance of the service he was a regular employee of the State of South Carolina . . .

This can be interpreted so as to suggest a contradistinction between State Bar employees and ‘regular’ employees of the State of South Carolina. Alternatively, it can be interpreted merely as a prohibition of dual employment.² In any event the cited language does not appear to exclude State Bar employees from coverage by the State Fund.

*2 This opinion is limited only to the question of State Fund coverage of Bar employees. This opinion does not address the status of State Bar officers and employees vis-a-vis other programs and regulations applicable to State employees generally.³ Prior opinions of this Office have recognized the special nature of the State Bar as a governmental agency falling within the scope of the Supreme Court.⁴

In conclusion, it is my opinion that employees of the State Bar, an agency of the State, qualify as ‘employees of the state’ for purposes of State Fund insurance coverage.

Very truly yours,

Edward E. Poliakoff
Assistant Attorney General

Footnotes

- 1 The classification of the South Carolina Bar as a governmental body is supported by case law relating to other states' integrated bars.
In [Wallace v. Wallace](#), 166 S.E.2d 718, 725 (Ga. 1969), the Georgia Supreme Court stated as follows:
The State Bar of Georgia is not a private corporation. No language appears in the order of this Court that indicates any intent to create a private corporation. On the contrary, what was created is an administrative arm of the Court. It is a governmental body. 7 Am.Jur.2d 47, Attorney at Law § 7.
In [Ford v. Board of Tax-Roll Corrections](#), 431 P.2d 423 (Ok. 1967), the Oklahoma Supreme Court quoted the following from an annotation entitled ‘State Bar created by act of legislature or rules of court; integrated bar’, 114 A.L.R. 161:
While the statutes or court rules under which they have been organized differ to some extent, integrated bars have the common characteristics of being organized by the state or under the direction of the state, and of being under its direct control, and in effect they are governmental bodies.
In accord is [In the Matter of Bannister](#), 86 Wash.2d 176 (1975) and [Emslie v. State Bar of California](#), 113 Cal.Reptr. 175 (1974).
- 2 In [Button v. Day](#), 132 S.E.2d 292 (Va. 1963), the Supreme Court of Appeals of Virginia held that a substantially identical Virginia provision prohibited the payment out of the Bar Fund of the salaries of the director of the continuing legal education program and of the editors of the Virginia Bar News since the subjects were also employees of the University of Virginia.
- 3 An integrated State Bar can be a State agency in one context and not a State agency in another. The Supreme Court of Washington in [In the Matter of Bannister](#), 543 P.2d 237, held that the State Bar Association is an agency of the State and thus its local administrative committees must operate in accordance with rules of agency applicable to public bodies. Yet in [Graham v. Washington State Bar Association](#), 548 P.2d 310 (Wash. 1976), the same court held that the same Bar Association was not a State agency or State department within the meaning of the statute authorizing the State auditor to conduct certain audits. Likewise the Supreme Court of Florida held that the Florida Financial disclosure law is inapplicable to Florida Bar officers and staff. [In re the Florida Bar](#), 316 So.2d 45 (Fla. 1975).
- 4 See, e.g., — Op. Atty Gen. — (Aug. 20, 1975); — Op. Atty Gen. — (Mar. 26, 1975); — Op. Atty Gen. — (May 27, 1968); — Op. Atty Gen. — (Feb. 20, 1968).

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