

1975 S.C. Op. Atty. Gen. 73 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4003, 1975 WL 22301

Office of the Attorney General

State of South Carolina

Opinion No. 4003

March 24, 1975

***1 Re: Public Employees Military Leave Without Loss of Pay**

The Honorable Robert R. Woods
Member
House of Representatives
Box 2115-A
Charleston, SC 29403

Dear Representative Woods:

In your telephone conversation of Friday, March 21, 1975, you asked for an opinion from this Office as to whether or not the Charleston County School District could withhold payment of salary to its employees who are on military leave. Section 44-168, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended) specifically provides: Officers and employees of the State of South Carolina and departments and subdivisions thereof, shall be entitled to military leave without loss of pay, seniority or efficiency rating, when attending National Guard encampments or schools for training, under proper authority, and on all other occasions when ordered to active duty, in the service of the State of South Carolina. (Emphasis added).

Furthermore, Section 44-861, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended) provides:

All officers and employees of this State or any political subdivision thereof, who are either enlisted or commissioned members of the South Carolina National Guard, the United States Naval Reserve, the Officers Reserve Corps, the Enlisted Reserve Corps, the Reserve Corps of the Marines, the Coast Guard Reserve and the United States Air Force Reserve shall be entitled to leave of absence from their respective duties without loss of pay, time or efficiency rating, for a period not exceeding fifteen days in any one year during which they may be engaged in training or other such duties ordered by the Governor, the War Department, the Treasury Department, the Navy Department or the Air Force Department. In the event any such person is called upon to serve during an emergency he shall be entitled to such leave of absence for not exceeding thirty additional days. (Emphasis added).

Therefore, as long as a school teacher is not absent for a period not exceeding 15 days in any one year while this teacher is engaged in military duties, the school district may not withhold any salary because of absence for military leave purposes.

Yours very truly,

M. Elizabeth Crum
Assistant Attorney General

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