

1975 WL 28862 (S.C.A.G.)  
Office of the Attorney General  
State of South Carolina  
May 28, 1975

**\*1 Re: Absences of Teachers for Annual National Guard Training**

Dr. W. B. Royster  
Superintendent  
Anderson Public Schools  
Anderson, South Carolina 29631

Dear Dr. Royster:

General James W. Henderson, Deputy Adjutant General, has referred your letter of March 12, 1975, to Captain James T. Harrison to this Office for an appropriate response. General Henderson is particularly concerned about your statement that it may be necessary to deny employment in the future to school teachers who are members of the National Guard.

While it is regrettable that this year's annual training came during the last week of your school term, you must realize that the South Carolina National Guard does not have complete control over the scheduling of summer camp, but rather must elect to schedule the training on dates provided by the National Guard Bureau. Inevitably, this date will conflict with someone's civilian commitments.

Section 44-139, South Carolina Code of Laws (1962), as amended, provides as follows:

A person who, either by himself or with another (a) willfully deprives a member of the National Guard of South Carolina of his employment, (b) prevents such member from being employed, (c) obstructs or annoys a member or his employer in his trade, business or employment because he is such a member or (d) dissuades or attempts to dissuade any person from enlisting in such National Guard by threat of injury to him in his employment, trade, or business shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in a sum not exceeding one hundred dollars or imprisoned in the county jail not more than thirty days.

Therefore, any action to deny employment to National Guardsmen, because of that status, as mentioned in your letter of March 12, 1975, would be unlawful. Hopefully, this problem will not arise in the future so that both commitments can be met by school teachers in the National Guard.

If you should desire further information on this matter, please feel free to write or call me. With cordial best wishes, I am  
Very truly yours,

Richard B. Kale, Jr.  
Assistant Attorney General

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