

1974 WL 28094 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 14, 1974

*1 Dr. Jack S. Mullins
Director
State of S. C. Personnel Division
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Dr. Mullins:

Your letter of February 14, 1974, addressed to the Attorney General has been referred to me for reply. In your letter you ask that this Office interpret certain provisions of Section 1-91.2 of the Code of Laws of South Carolina, commonly known as the Annual Leave Act. Specifically, you have requested that we advise you as to how the provisions of the Act which deal with the earning of bonus days of annual leave after ten years of service are to be applied to employees who work a school year of nine months in a State operated educational institution.

As I understand it, the question is whether a school year, or a nine-month period is to be considered as a year, within the meaning of the Act for the purposes of computation of the bonus days after ten years of service.

Section 1-91.2 of the Code of Laws of South Carolina provides *inter alia* that:

For the first ten years of State service, he [a State employee covered by the provisions of the Act] shall earn one and one fourth working days' annual leave for each month of full-time employment per year. Thereafter, he shall earn an additional one and on-fourth working days' annual leave for each year of continuous service. (Emphasis added.)

The answer to your question lies in the construction to be given to the word 'year' as it is contained in the emphasized language of the statute set forth above. It is a well known rule of statutory construction that words appearing in statutes are to be accorded their ordinary meaning unless there is a specific demonstrated legislative intent to accord them different meanings. [N.L.R.B. v. Coca Cola, 350 U.S. 264 \(1956\)](#); [Bohlen, et al. v. Allen, et al., 228 S.C. 135 \(1956\)](#).

Therefore, it is necessary to determine what the word 'year' ordinarily or normally means. It is well established both at common law and by statute 'that unless otherwise expressed, the word 'year' when used in a . . . statute . . . ordinarily is understood as meaning a calendar year of three hundred and sixty-five days or of twelve months . . . ' 86 C.J.S. [Time](#) § 9 (1955). In [V-C Chemical Co. v. Wellbrock, et al., 143 S.C. 51, 57, 141 S.E. 103 \(1928\)](#), our Supreme Court had occasion to discuss the definition of the word 'year' as it appeared in a statute stating:

Where reference is made to a certain year, the presumption is that the calendar year is meant. [Buchanan v. State Treasurer](#), 68 S.C. at page 416, 47 S.E. 685 . . . It might be that the legislature intends to establish a fiscal year running from one date to another, or a year or a term of years from a certain date, but in the absence of any such intention, it seems to be clear that a calendar year is meant.

In Section 1-91.2 of the Annual Leave Act, there is nothing that indicates that the General Assembly meant for the word 'year' to mean anything other than a calendar year of twelve months or 365 days. For an example of a statute where the General Assembly demonstrates clear legislative intent that the word 'year' was to include a school year, your attention is directed to Section 61-52 of the Code of Laws of South Carolina which provides in relevant parts that:

*2 The Board shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service . . . Service rendered for the regular school year in any district shall be equivalent to one year's service. (Emphasis added.)

It should be additionally noted that this Office has previously found that under Section 1-42.2 of the Code of Laws of South Carolina,^a State employees who work a nine-month academic year are not entitled to 15 days of sick leave per year, but rather are to 'have their sick leave pro-rated to the number of months of actual employment during the year.' 1967-68 Op. Att'y Gen. No. 2557, p. 253.

In light of the foregoing, it is our opinion that State employees who work an academic or nine-month year are to have their bonus days of annual leave, computed on a pro-rated basis of 9 months or nine-twelfths of the annual rate authorized by Section 1-91.2 for each year of continuous service after ten years.

I hope that the foregoing sufficiently answers the question posed in your letter of February 14.

Very truly yours,

Ellison D. Smith, IV
Assistant Attorney General

Footnotes

a The Sick Leave Act for State Employees.

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