

1974 WL 27445 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
June 13, 1974

***1 Re: South Carolina Code Section 61-76**

Mr. David E. Turnipseo
251 Magnolia Street
Spartanburg, SC 29301

Dear David:

You have asked this office for an opinion concerning a Mr. Herman W. Mizzell and Code Section 61-76. Specifically, you have asked if Mr. Mizzell may now obtain retirement service credit for a year he spent in gaining his Master's Degree at Western Carolina. In the opinion of March 29, 1974, this office stated that Section 61-76 had a two-fold requirement before an employee returning to covered service may receive retirement credit for his absence:

(1) The subject must have requested and received a leave of absence prior to leaving employment covered under the System;

(2) The subject must have gotten the approval of the Boare, while on leave of absence or before, to make monthly contributions to the System, and in fact must have made those contributions.

It is my understanding that Mr. Mizzell meets the requirement of no. 1 above but did not follow the requirements of no. 2 above. From the facts as this office has them, Mr. Mizzell did not obtain the approval of the State Budget and Control Board under Code Section 61-76 as he must in order to take advantage of the provisions of Section 61-76.

It is the opinion of this office that Code Section 61-76 speaks to procedures to be accomplished prior to or during a leave of absence and not to procedures that can be utilized subsequent to a person being re-employed by a covered employer.

It understand the difficulty in Mr. Mizzell's case and deeply regret that this office's opinion must be contrary to Mr. Mizzell's interest.

Sincerely yours,

A. Camden Lewis
Assistant Attorney General

1974 WL 27445 (S.C.A.G.)