

1974 WL 27493 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
October 28, 1974

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

Dear Mr. Mullina:

I am in receipt of your letter of October 28, 1974, addressed to the Attorney General. In that letter you raise three questions concerning the applicability of various provisions of the State Employee Grievance Procedure Act of 1974, Act No. 1025. I will answer the questions in the order in which you have posed them.

1. The first, question which you have asked is whether the fifteen days in which the State Budget and Control Board can review a decision of the State Employee Grievance Committee are to be considered calendar days or work days. In response to this question, or direct your attention to an earlier opinion rendered by this Office, dated July 25, 1974, in which we took the position that all references in Act to days are referances to calendar days as opposed to work days. I am attaching a copy of that opinion.

2. The second question which you posed is whether or not it is necessary to send copies of the State Employee Grievance Committee's decisions to the individual members of the Budget and Control Board by registered or certified mail in order to insure proper notification.

It is my opinion that it is not necessary to transmit copies of the Grlevance Committee's decision by registered or certified mail, inasmuch as the law in this State historically has been that personal service which is a legal term for notification can be properly affected by a first class mailing. If, however, you are having some difficulties in keeping records relating to when a decision is served, I would advise that you begin executing affidavits of service by mail when decisions of the Grievance Committee are forwarded to the Budget and Control Board. I am enclosing a sample affidavit of service by mail for you to use as a guide.

3. The final question you pose is whether the State Budget and Control Board can reopen a case after the fifteen-day statutory review period has ran and receive additional information concerning the case.

It is the opinion of this Office that the Budget and Control Board does not have authority to reopen a case after the statutory period of time for review has run and in addition, the Budtet and Control Board must base its decision within the fifteen-day time period solely upon the record that has been developed before the State Employee Grievance Committee. In this regard, I direct your attention to the following language of the Act which provides; *inter alia*:

If, however, the State Budget and Control Board rejects the decision of the committee, the board shall make its own decision without further hearing at its regular meeting or within ten days, whichever comes first, and that decision shall be final with copies transmitted to the employee, the employing agency and the State Personnel Division. (Emphasis added.)

*2 The above quoted language clearly indicates that the General Assembly did not wish the Budget and Control Board to sit as a de novo hearing body in regard to appeals from the Grievance Committee, but rather wished the Budget and Control Board to merely review the record already developed by the Grievance Committee.

I hope that the foregoing sufficiently answers the questions which you posed.

Yours very truly,

Ellison D. Smith, IV
Assistant Attorney General

1974 WL 27493 (S.C.A.G.)

End of Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.