

1980 WL 121102 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 18, 1980

***1 Re: Postponement of Grievance Hearings**

Jack S. Mullins, Ph.D.
Director
S.C. Budget and Control Board
Personnel Division
1205 Pendleton Street
Post Office Box 12547
Columbia, South Carolina 29211

Dear Dr. Mullins:

You have recently asked this Office for its opinion concerning who has the authority to grant postponements of grievance hearings pending before the State Employee Grievance Committee. It is the opinion of this Office that the State Employee Grievance Committee and the Chairman thereof may grant postponements of hearings pending before the Committee.

Section 8-17-40, 1976, Code of Laws of South Carolina provides in part:

Before the grievance is forwarded to the committee, the State Personnel Director or his designee shall meet with both sides of the issue and try to resolve the grievance on a voluntary basis. If that is not possible, then the State Personnel Director shall forward to the chairman of the State Employee Grievance Committee those requests that are determined to be in order. Upon being advised by the Chairman of the committee as to the date and time when the committee shall meet, the State Personnel Director shall notify all parties concerned of the date, time and place of the hearing and request their presence. (Emphasis added).

When a statute is unambiguous there is no occasion for a court to apply rules of statutory construction. [Batson v. University of South Carolina](#), 271 S.C. 242, 246 S.E. 2d 882 (1978), [Green v. Zimmerman](#), 269 S.C. 535, 238 S.E.2d 323 (1977) and [McMillen Feed Mills, Inc. of South Carolina v. Mayer](#), 265 S.C. 500, 220 S.E.2d 221 (1975). The General Assembly authorized the chairman of the Committee to set the date and time for grievance hearings.

Pursuant to Section 8-17-30, 1976 Code of Laws of South Carolina the Committee has made 'rules and regulations . . . necessary to carry out the provisions' of the State Employee Grievance Procedure Act. Such rules provide:

19. If either party does not appear at the hearing and has not requested a postponement or a requested postponement has been previously denied, the hearing is held at the scheduled time, and the Committee bases its decision on a review of the record and the presentation of the case by the party present. The Committee may waive this rule based upon extenuating circumstances.

22. The State Employee Grievance Committee may grant reasonable delays of a scheduled hearing. The request for a delay must be submitted in writing. Both parties must agree on the requested delay unless the request is based on unusual circumstances such as an illness or death.

Both rules apparently envision that requests for postponements or delays be addressed to the Committee since the Committee may waive the application of Rule 19 and the Committee may grant delays of hearing according to Rule 22.

For the foregoing reasons it is the opinion of this Office that once a grievance has been submitted to the Committee, the Chairman of the Committee must set the date and time for hearings and the Committee, acting collectively or through its chairman, may grant postponements of hearings.

Sincerely,

*2 Barbara J. Hamilton
State Attorney

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