

1972 WL 25280 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 18, 1972

***1 Re: State Employees (Accrued Leave Upon Termination of Employment)**

Mr. Melford A. Wilson
Vice President for Business and Finance
Clemson University
Clemson, South Carolina 29631

Dear Mr. Wilson:

It has been requested by John B. Gentry, Personnel Director, that this office render you an opinion as to the actual amount to be paid a terminating employee for accrued unused annual leave at the time of his termination. Clarification of the following two situations was specifically requested:

(1) An employee who has accrued the maximum of twenty-four (24) days of unused annual leave and retires at the end of the working day on June 30, 1972; and

(2) An employee who has accrued fifteen (15) days of unused annual leave and retires at the end of the working day on June 30, 1972.

As provided by Section 1-85 of the Code of Laws of South Carolina (1971 Cum. Supp.), annual leave is accrued in terms of working days, which are defined by Section 1-90 of the Code as including 'every day of each week except Sunday and legal holidays'. In an opinion dated June 26, 1968, the Attorney General concluded that under this definition terminal annual leave should be computed on the basis of a six day working week, which would result in those terminating employees who have accumulated the maximum twenty-four days receiving pay for four full weeks.

Accordingly, the general rule to follow is to pay a terminating employee the amount he would have received had he continued to work through the end of the day, computed by counting forward beginning with the first working day after his last actual working day, the number of working days of accrued unused annual leave involved, omitting from the count Sundays and legal holidays and including in the count Saturdays, regardless of whether Saturday is considered a holiday by the University.

Applying this rule to the situations described hereinbefore, the employee should be paid the amount he would have received had he continued to work through July 29, 1972, in the first situation and July 19, 1972, in the second situation. These are the dates computed by counting forward beginning with Saturday, July 1, 1972, twenty-four days and fifteen days, respectively, omitting Sundays and the legal holiday, July 4, 1972, and including Saturdays.

I trust that this will clarify the confusion you were having with the accrued unused annual leave law. However, if I can be of any further assistance, please let me know.

Very truly yours,

Edwin B. Brading
Assistant Attorney General

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