

1982 WL 189302 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 25, 1982

**\*1 RE: eila A. Scott**

A. Baron Holmes, IV,  
President  
South Carolina School for the Deaf and the Blind  
Spartanburg, South Carolina 29302

Dear President Holmes:

Your recent letter to Attorney General McLeod requesting an opinion regarding whether the referenced employee should be awarded compensatory time under the provisions of a recent joint resolution (H. 3455; ratification number 338) has been referred to me for response. It is the opinion of this office that Ms. Scott is not entitled to compensatory time under this resolution.

Your letter reflects that Ms. Scott was discharged as an employee of the School for the Deaf and the Blind on May 19, 1981; that she grieved her discharge; and that she was reinstated to her former position after the State Employee Grievance Committee, on March 30, 1982, upheld her grievance and ordered her reinstated with backpay. The joint resolution of the General Assembly to which you refer in your letter requesting this opinion provides, in pertinent part:

Notwithstanding any other provision of law, no state employee who was absent from work on January 13, 1982, or during the afternoon of January 14, 1982, or any part thereof, and who shall certify to his employer that such absence was solely due to inclement weather, shall be docked pay or leave entitlements on account of such absence; provided, however, that state employees who work in those counties which the Governor declares to have been adversely affected by inclement weather on January 13, 14, and 15, 1982, and who certify to their employer that such absence was solely due to the inclement weather, shall not be docked pay or leave entitlements on account of absences from work on these days; and provided, further, that any state employee who worked during those days for which they would have qualified for an excused absence as provided above shall be given compensatory time for the amount of time they worked.

You state that, in the backpay awarded Ms. Scott as a result of the Grievance Committee's ruling, Ms. Scott was paid for January 13, 14, and 15, 1982. In this office's opinion, the joint resolution does not entitle her to an award of compensatory time for having worked all or any part of January 13, 14, or 15, because, in fact, she did not work all or any part of those days. Whether Ms. Scott would have worked all or any part of these 'snow' days had she been an employee of the school on January 13-15 is purely speculative. The fact remains that she was not, at the time, an employee and she did not, therefore, work all or any part of January 13-15, 1982.

Accordingly, Ms. Scott is not entitled to compensatory time under the second proviso to the joint resolution. This conclusion is supported not only by the plain wording of the proviso but also by the established rule of statutory construction that provisos are to be strictly construed. See, 82 C.J.S. Statutes § 381b. (1) at 886-887 (1953); 2A Sutherland, Statutes and Statutory Construction, § 47.08 (C.Sands ed. 1973).

Sincerely,

**\*2 Vance J. Bettis**  
Assistant Attorney General

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