

1980 WL 120575 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 2, 1980

**\*1 Re: South Carolina Code of Laws, Sections 8-17-30 and 1-23-340 (The Grievance Act and the Administrative Procedures Act)**

Dr. Jack S. Mullins, Ph.D.  
Director  
State 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 whether the State Budget and Control Board must hear oral argument and accept briefs when the State Employee Grievance Committee's decision is the final decision in a grievance appeal. It is the opinion of this Office that the Board is not required to hear arguments or to accept briefs when the Committee's decision is final.

Section 8-17-30, 1976 South Carolina Code of Laws, provides in relevant part:

The committee shall, within twenty days after hearing an appeal, make its findings and decisions and report such findings and decisions to the State Budget and Control Board. Unless the State Budget and Control takes action to reject a decision made by the committee within fifteen days, the decision of the State Employee Grievance Committee shall be transmitted by the State Budget and Control Board to the employee, the employing agency and the State Personnel Division and shall be final. 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 next 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. The agency-respondent in the appeal will be bound by the final decision and will take action immediately to implement its obligation under the decision. (Emphasis added).

The quoted section of the Grievance Act plainly states that the Committee is empowered to render decisions which if not modified or reversed by the Board are final decisions. If the Committee's decision is the final decision in a grievance appeal, [Section 1-23-340, 1976 Code of Laws of South Carolina](#), does not come into play because that section applies to contested cases in which the decision makers are unfamiliar with the case. [Section 1-23-340 of the Code](#) provides in part:

When in a contested case a majority of the officials of the agency who are to render the final decision have not heard the case or reviewed the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision.

In those cases in which the Board rejects the Committee's decision and renders a decision without affording the parties an opportunity to present briefs and oral argument, a majority of the Board members must have either heard the case or reviewed the record.

\*2 The record in a contested case is defined in [Section 1-23-320\(g\) of the Code](#) as:

- (1) All pleadings, motions, intermediate rulings and depositions;
- (2) Evidence received or considered;
- (3) A statement of matters officially noticed;
- (4) Questions and offers of proof, objections and rulings thereon;
- (5) Proposed findings and exceptions;
- (6) Any decision, opinion of report by the officer presiding at the hearing;

The practice of submitting the Committee's complete file and tapes and/or transcripts to the Board for its review prior to its rendering a decision in a grievance matter complies with the above quoted sections of the Grievance and Administrative Procedures Acts.

Sincerely,

Barbara J. Hamilton  
State Attorney

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