

1979 WL 42742 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 9, 1979

*1 Dr. Jack S. Mullins
Director
Budget and Control Board
State Personnel Division
Suite 333
Edgar Brown Building
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Dr. Mullins:

The responses to your questions concerning state holidays are submitted here below in summary form.

Attached hereto is a more comprehensive analysis of the legal quandary involved in formulating the answers to the questions which you posed.

1. Must a state agency remain open on all non-national holidays if none of the employees of that agency elect to work on those holidays?

The five non-national legal holidays must be observed by all agencies, subject to their right to remain open if it is determined that their services are essential. In determining whether the services of that agency are essential, agency heads should consider whether the conditions exist on any given day which would warrant an opening of the same agency for the public transaction of business on the 4th of July. Such instances will be rare except in certain agencies performing work, such as police, hospital care, etc.

If the number of employees appearing for work on a non-national holiday is not sufficient to enable the agency to carry out its function, the agency should remain closed and the employees should be put to work at such tasks as may be available within the agency.

2. May parts of agencies close while other parts remain open on legal holidays?

The answer to this question is in the affirmative. Consideration must be given to the relationship between various parts of an agency in order to determine if one may function without the presence of the other.

3. May a state employee be forced not to work on a holiday on which the employee has elected to work?

No.

Very truly yours,

Daniel R. McLeod
Attorney General

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