

1980 WL 120837 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 20, 1980

*1 Jack S. Mullins, Ph.D.

Director

Personnel Division

Room 333

Edgar Brown Building

Columbia, South Carolina 29201

Dear Dr. Mullins:

You have recently asked this Office for its opinion concerning an appropriate response to the Petitioner for Reconsideration submitted by Jay Bender, Esquire, on behalf of Dr. Everett C. Simmons. After reviewing the record in this grievance appeal, the Budget and Control Board decided to reverse the State Employee Grievance Committee's decision and to issue its own decision.

According to the State Employee Grievance Procedures Act, Section 8-17-30, 1976 Code of Laws of South Carolina, if . . . 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 the decision shall be final with copies transmitted to the employee, the employing agency and the State Personnel Division. (Emphasis added).

When a statute is plain and unambiguous, the words in the statute must be given their literal interpretation. [University of South Carolina v. Batson](#), 271 S.C. 242, 244, 246 S.E.2d 882, 883 (1978); [Green v. Zimmerman](#), 269 S.C. 535, 538, 238 S.E.2d 323, 325 (1977), and [McMillen Feed Mills, Inc. v. Mayer](#), 265 S.C. 500, 510, 220 S.E.2d 221, 226 (1975). Accordingly, the State Employee Grievance Procedures Act does not make provision for the Board to reconsider its decisions.

With regard to perfecting appeals of agency decisions, the Administrative Procedures Act provides:

Proceedings for review are instituted by filling a petition in the circuit court within thirty days after the final decision of the agency or, if a rehearing is requested, within thirty days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record. [Section 1-23-380\(b\), 1976 Code](#) of Law of South Carolina.

This Act plainly requires appeals to be filed within thirty days of the final decision of an agency. It does not give an appellant of administrative decision an express right to a reconsideration of the agency decision.

For the foregoing reasons, it is the opinion of this Office that a decision by the State Budget and Control Board not to reconsider grievance appeals would be correct.

Sincerely,

Barbara J. Hamilton

Assistant Attorney General

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