

1980 WL 121002 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 12, 1980

***1 Re: [Section 59-111-50, 1976 Code of Laws of South Carolina](#), Titled Default on Certain Student Loans**

Dr. Jack S. Mullins
Director
S.C. Budget and Control Board
Personnel Division
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Dr. Mullins:

You have recently asked this Office for its opinion about the questions which are addressed below.

1. If a State employee is in default on one of the specified loans and does not correct the default as provided by the Act within a reasonable time is termination required by the Act?

The answer to this question is affirmative provided the default is wilful. [Section 59-111-50 of the Code](#) provides in part: No person who has wilfully defaulted on a National Direct Student Loan, a National Defense Student Loan, a Guaranteed-Federally Insured Student Loan, a Nursing Student Loan, a Health Professions Student Loan or a Law Enforcement Educational Loan shall now or hereafter be employed by the State or any of its departments, agencies or subdivisions until all defaults are cured and loan payments made current . . . (Emphasis supplied).

When a statute is plain and unambiguous, the words in the statute must be given a literal interpretation. [University of South Carolina v. Batson](#), 271 S.C. 242, 244, 246 S.E.2d 882, 883 (1978). The above quoted section of the new law prohibits a person who has wilfully defaulted on one of the specified loans from remaining employed by a state agency until all arrearages have been made current. The proviso in the new law allows a defaulter to be employed by a state agency if a voluntary agreement which provides for the repayment of the loan is reached with the lender and if the terms of such agreement are met.

2. What would be considered a reasonable time for an agency to give (a) an applicant for employment and (b) an employee in State service to present the required evidence from the lender that the default has been cured?

The new law is silent as to how much time an applicant or an employee may be allowed to reach an agreement with a lender. The determination of a 'reasonable time' period is an administrative decision.

Sincerely,

Barbara J. Hamilton
Assistant Attorney General

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