

1977 WL 37042 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 31, 1977

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County Attorney
Marion County
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Dear Bill:

Thank you for your letter of August 26 concerning the grievance by clerical personnel of the board of registration.

While the board of registration hires the personnel, it is my understanding that the county pays for them. I understand also that clerical employees are carried on the retirement rolls as county employees and that they are considered as county employees for the purpose of Workmen's Compensation.

I am in agreement with you that the county council could not make a decision which would be binding on the registration board, but I feel that some grievance procedure should be provided for these individuals who are not State employees, and are county employees only for limited purposes. I have not seen your county grievance procedure and therefore am not aware of whether it includes the county and municipal employees grievance procedure as set forth in Sections 8-17-110, *et seq.*, of the 1976 Code of Laws. That Act is optional with the counties and is apparently applicable to any permanent county employee who has furnished six months of satisfactory service. It provides that the decision of the governing body of the county when sitting in review of a Grievance Committee action, may make a 'final decision.' In this respect, the county-city procedure differs from the State grievance procedure, pursuant to which the decision of the final reviewing authority must be implemented by the agency involved. See Section 8-17-30, last sentence.

I think of interest to you also would be Section 4-9-30(7) which grants to each of the county governments, irrespective of its form of government, certain powers to develop personnel system policies and procedures for county employees. The governing body of each county is responsible for the employment and discharge of county personnel 'in those county departments in which the employment authority is vested in the county government but this authority shall not extend to any personnel employed in departments or agencies under the direction of an elected official or under an official appointed by an authority outside county government.' The last clause, in my opinion, includes boards of registration.

The last paragraph of this subsection, however, provides:

'Notwithstanding the above provisions of this subsection, any employee who is discharged may elect to submit his grievances concerning his discharge to a county grievance committee in those counties where such committees are operative and in such case his discharge will be reviewed in the manner provided for in the rules of that committee retaining all appellate rights therein provided for.'

I think that the latter statute provides a system for review by the county grievance committee of the clerical personnel referred to.

County council would review it and approve or disapprove it and forward it to the board of registration for its action. Whether the employees would have any right to enforce it by legal action or not, I do not know, but it at least provides for a grievance

procedure for these employees who are in a gray area of classification, and it seems to me that this is about as far as the county council can go. In all probability, it would be effective to resolve the matter no matter which way the decision goes.

*2 With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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