

1977 S.C. Op. Att. Gen. 218 (S.C.A.G.), 1977 S.C. Op. Att. Gen. No. 77-285, 1977 WL 24625

Office of the Attorney General

State of South Carolina

Opinion No. 77-285

September 12, 1977

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#### QUESTION:

What does the phrase ‘without loss of pay’ mean when used in Sections 25–1–2250 and 8–7–90 of the 1976 Code of Laws of South Carolina?

#### STATUTES, TREATISES AND LETTERS OF THE ATTORNEY GENERAL:

Section 8–7–90, CODE OF LAWS OF SOUTH CAROLINA (1976).

Section 25–1–2250, CODE OF LAWS OF SOUTH CAROLINA (1976).

Letter from Daniel R. McLeod to F. A. McWilliams (April 14, 1972).

Letter from C. Tolbert Goolsby to Gary Ashley (December 17, 1974).

Letter from Richard B. Kale, Jr., to Henry Busbee (May 27, 1975).

#### DISCUSSION:

Generally, Sections 8–7–90 and 25–1–2250 of the 1976 Code provide that members of the National Guard who are also ‘officers and employees of this State or any political subdivision thereof’ are entitled to leaves of absence from their respective duties ‘without loss of pay’ when engaged in mandatory training and similar activity.

For the reasons which follow, the phrase ‘without loss of pay’ means that the public employee or officer is entitled to his or her full, regular public salary plus any additional compensation he or she might receive from their respective military units. This view is in accord with previous opinions of this Office. See, Letter from Daniel R. McLeod to F. A. McWilliams (April 14, 1972), Letter from C. Tolbert Goolsby to Gary Ashley (December 17, 1974), Letter from Richard B. Kale, Jr., to Henry Busbee (May 27, 1975).

The legislative purpose in enacting these statutes obviously was to mitigate the hardships attendant upon those who drop their own affairs to take up the burdens of their state or county. Such loyal service was to be rewarded, and this intent is reflected in the provision that public employees serve ‘without loss of pay.’ In this respect the language of the statute is clear: public employees will receive their full pay while at military training exercises.

#### CONCLUSION:

It is the opinion of this Office, therefore, that the phrase, 'without loss of pay,' as used in §§ 8-7-90 and 25-1-2250 means an employee or officer of the State or its subdivisions is entitled to his or her full pay while on military leave as provided for in §§ 8-7-90 and 25-1-2250, regardless of the fact that he or she may receive additional compensation from his or her respective military unit.

C. Tolbert Goolsby, Jr.  
Deputy Attorney General

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