

1978 S.C. Op. Atty. Gen. 190 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-160, 1978 WL 22628

Office of the Attorney General

State of South Carolina

Opinion No. 78-160

September 21, 1978

***1 SUBJECT: Employees, Public; Labor Relations**

Employees of the Industrial Commission's Judicial Department and employees of the Insurance Department have the same rights as other state employees under the State Employee Grievance Procedure Act.

All permanent state employees who have completed six months of satisfactory state service are covered by the State Employee Grievance Procedure Act, unless specifically exempted from such act, notwithstanding previous legislation to the effect that such employees are 'terminable at will' or serve 'at the pleasure' of the agency.

TO: Dr. Jack S. Mullins
State Personnel Division

QUESTION:

Do employees of the Industrial Commission and employees of the Insurance Department have the legal right to grievance procedures under the State Employee Grievance Procedure Act?

STATUTES AND CASES:

§§ 8-17-10, et seq., §§ 42-3-50, 42-3-60, 38-3-110, [Code of Laws of South Carolina \(1976\)](#), as amended. 1961-62 Op. Att'y. Gen. 2731.

DISCUSSION:

§§ 8-17-10, et seq., of the Code of Laws of South Carolina, 1976, as amended, established the South Carolina Employee Grievance Procedure Act. The various state agencies and departments are required under said section of the Code to establish internal employee grievance procedures. After a state employee has exhausted the grievance procedures within the particular agency, he may appeal certain adverse decisions to the State Employee Grievance Committee pursuant to § 8-17-30.

The question has arisen whether certain employees who are employed 'at the will or pleasure of the Commission' or who are 'terminable at will' are subject to such act. §§ 42-3-50, 42-3-60 and 38-3-110 give such status to employees of the Industrial Commission's Judicial Department and employees of the Insurance Department.

Once a state employee has completed six months of satisfactory service, or after an official extension of not to exceed three months and is appraised satisfactory, he acquires the right to appeal certain adverse decisions of local agency grievance procedures to the State Employee Grievance Committee. See Op. Att'y. Gen. No. _____, dated August 8, 1978. Prior to the adoption of the Employee Grievance Procedure Act of 1974, several statutes provided that employees of the various agencies were to be employed at the will or the pleasure of the agency, and furthermore, could be dismissed without cause. However, it is the opinion of this Office that unless state employees are specifically exempted from the

State Employee Grievance Procedure Act, the provisions governing state employees generally in the Grievance Procedure Act will supersede all previous legislation to the contrary concerning permanent state employees. This is in accordance with the general accepted principle that the last expression in point of time of the legislature's will is the law if there is a conflicting provision in different statutes. See 1961–62 Op. Att'y. Gen. 2731.

CONCLUSION:

*2 Employees of the Industrial Commission's Judicial Department and employees of the Insurance Department, notwithstanding §§ 42–3–50, 42–3–60 and 38–3–110, have the same rights as other state employees under the State Employee Grievance Procedure Act once they have completed six months of satisfactory service, or after an official extension of not to exceed three months are appraised satisfactory. These two departments must establish an internal employee grievance procedure as mandated by § 8–17–20 of the Code of Laws of South Carolina, 1976, as amended.

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