

1975 WL 29771 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 30, 1975

*1 Dr. Jack S. Mullins
State Director
State Personnel Division
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Dr. Mullins:

You have requested an opinion as to whether an appeal from certain faculty members at Midlands Technical College to the State Employee Grievance Committee from the decision of the State Board for Technical and Comprehensive Education is properly a grievance pursuant to the State Employee's Grievance Act of 1974.

After reviewing the grievance submitted by the faculty, it appears that the matter concerns the validity of a contract or contracts entered into between Midlands Technical College and some of the faculty at Midlands. The State Employee Grievance Act was intended to refer to employee grievances 'involving issues which affect their career status or continuing employment with the State. . . .' (§ 1-49.17, Code of Laws of South Carolina, 1962, as amended). It was not intended to extend to matters of contract law which are properly justiciable in a court of law.

However, the grievance also raises an alleged inequity within the agency. It is not possible to determine from the face of the complaint whether the matter is primarily a contract dispute or a valid employee grievance. Therefore, it will be necessary for the State Grievance Committee to hold an evidentiary hearing in the matter. If after all the evidence is in, it is determined that the matter is primarily one of contract law, then it would be proper for the committee to withdraw until such matters have been resolved by the courts. If the matter is primarily one in contract, any decision reached by the Board, even if affirmed by the State Budget and Control Board, would not be final. Either party would be able to apply to the courts for remedy on the contract.

After the court has decided the contract issue, any inequities which might still exist would be properly before the Grievance Committee. I might suggest that the Board could more quickly arrive at this decision if the attorneys for both sides would agree to frame the issues and to stipulate which documents are to be presented before the Committee. It then would be possible for this office to express an opinion as to whether this matter is cognizable before the Grievance Committee, if this is desired.

I will of course be available to you or to the Grievance Committee to assist in any way that I can during these proceedings.
Very truly yours,

Stephen T. Savitz
Assistant Attorney General

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