



THE SOUTH CAROLINA
DEPARTMENT of ADMINISTRATION

Personnel Settlement Approval Checklist

In some circumstances a personnel settlement between an agency and employee or former employee must be approved by the State Human Resources Director or the State Fiscal Accountability Authority. To determine if a settlement will require approval, please contact the Division of State Human Resources Alternative Dispute Resolution Program. To ensure there are no delays in receiving approval, agencies are urged to contact the Alternative Dispute Resolution Program prior to finalizing an agreement.

In order to facilitate approval of Personnel Settlements as required by Section 19-719.02 of the State Human Resources Regulations, agencies are to include the following information in the letter requesting approval and the agreement.

Agencies are strongly encouraged to submit proposed agreements to the Division of State Human Resources Alternative Dispute Resolution Program for review before to obtaining signatures.

Agencies seeking approval of a personnel settlement should provide the following:

1. Letter of justification containing the following:

- Background and analysis of case.
- Liability to agency, if applicable.
- Cost effectiveness of settling the matter.
- Benefits and interests of settling the matter.

2. Settlement agreement containing the following clauses:

- No admission of liability by either party, if applicable.
- Releases agency from any other claims related to the matter at hand (must note exceptions to release of pending Workers' Compensation claims).
- Terms concerning withdrawing pending action which may be administrative or judicial or both (exceptions include EEOC claims or pending Workers' Compensation claims).
- Amount of lump sum payment and where it will come from should be clearly delineated.
- Determination of whether lump sum amount is waged-based or non-waged based.
- In accordance with Section 19-718.11 of the State Human Resources Regulations all personnel settlements must be approved.
- Confidentiality language with FOIA exception, if applicable.
- Waiver of claims under ADEA and OWBPA.
- If employee is represented by attorney, a reference to the attorney should be made.
- Voluntary execution of release clause.
- Signed and dated by state agency representative, the employee, and the attorneys, if applicable.
- Witness signatures.
- Severability clause.
- Laws of South Carolina govern clause.

Agencies may engage an attorney at law, on a fee basis, to assist in the drafting of personnel settlements so long as the attorney is engaged in accordance with Section 1-7-170 of the South Carolina Code of Laws of 1976. As amended, the law requires that a department or agency of state government receive approval from the Attorney General prior to engaging on a fee basis an attorney at law and that the related fee be approved by the Attorney General.

Sample agreement clauses can be obtained from the Alternative Dispute Resolution Program staff.