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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

October 27, 2004

W. Fred Crawford, Principal  
Greenville Technical Charter High School  
Post Office Box 5616  
Greenville, South Carolina 29606-5616

Dear Mr. Crawford:

In a letter to this office you questioned whether the South Carolina Association of Public Charter Schools (SCAPCS) is required to comply with this State's Freedom of Information Act ("FOIA") as set forth by S.C. Code Ann. Sections 30-4-10 et seq. (Supp. 2003). You indicated that the SCAPCS receives public funds which you described as federal grant funds in addition to public charter school funds.

In reviewing your question, it must be noted that this Office has repeatedly indicated that an opinion of the Attorney General cannot determine facts. See: Op. Atty. Gen. dated November 4, 2003. Therefore, in reviewing your question, we must rely on the factual basis set forth in your request.

As set forth by Section 30-4-15, in enacting this State's Freedom of Information Act, the General Assembly made the following findings:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

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Pursuant to the FOIA, a "public body" is subject to the requirements of the FOIA unless otherwise excepted. The term "public body" is defined by Section 30-4-20(a) to mean

...any department of the State, a majority of directors or their representatives of departments within the executive branch of state government as outlined in Section 1-30-10, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina State Ports Authority. Committees of health care facilities, which are subject to this chapter, for medical staff disciplinary proceedings, quality assurance, peer review, including the medical staff credentialing process, specific medical case review, and self-evaluation, are not public bodies for the purpose of this chapter.

In an opinion of this office dated March 27, 1984, it was stated that with regard to the stated legislative purpose, "the Freedom of Information Act 'is a statute remedial in nature and must be liberally construed to carry out the purpose mandated by the General Assembly.'" That opinion concluded that if a body is supported in whole or in part by public funds, then it would be subject to the requirements of the Freedom of Information Act. In Weston v. Carolina Research and Development Foundation, 303 S.C. 398, 403, 401 S.E.2d 161, 164 (1991), the State Supreme Court similarly concluded that

...the unambiguous language of the FOIA mandates that the receipt of support in whole or in part from public funds brings a corporation within the definition of a "public body"

As set forth above, you indicated that the SCAPCS receives public funds, described as federal grant funds in addition to public charter school funds. If such is the case, then, in my opinion, the SCAPCS would come within that portion of the definition of "public body" which includes "any organization, corporation or agency supported in whole or in part by

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public funds or expending public funds.” The SCAPCS would then be subject to the requirements of the Freedom of Information Act.

If there are any questions, please advise.

Sincerely,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General