

The State of South Carolina



Office of the Attorney General

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June 2, 1988

The Honorable James L. Solomon, Jr.
Commissioner
South Carolina Department of
Social Services
Post Office Box 1520
Columbia, South Carolina 29202-1520

Dear Commissioner Solomon:

By your recent letters, you have asked whether two employee organizations recognized by the South Carolina Department of Social Services would be considered public bodies and thus subject to the requirements of the Freedom of Information Act. You have also asked about the expenses of members attending regularly scheduled meetings of these organizations (other than training sessions) and whether such are subject to reimbursement under state law.

The two organizations are the County Directors and Supervisors Association of the South Carolina Department of Social Services and the South Carolina Association of County Human Services Administrators. According to records of the Secretary of State, both are chartered as eleemosynary corporations. By-laws of each organization require that dues be paid by each member; we understand that each member pays his own dues and that no public funds are received by or otherwise granted to the organizations. Each organization appears to exist to serve the members in their individual, rather than official capacities. It is noteworthy that Mr. Robert D. Floyd, Interim Commissioner, by letter dated April 22, 1977, stated, "Although the [directors and supervisors] Association is recognized by this agency, it is in no way an official arm of our agency." Neither entity was established pursuant to a statute or legislative act.

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The definition of "public body" under the Freedom of Information Act is found in Section 30-4-20(a) and provides in pertinent part:

"Public body" means any department of the State, 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... .

While these organizations would be considered an "organization" or "corporation," potentially subject to terms of the Act, it is necessary that the organizations be "supported in whole or in part by public funds" or expend public funds to fall within the requirements of the Act. Because dues are paid individually by the members and apparently no funds of a public nature are received or expended by either organization, neither organization seems to fall within the definition of "public body." See also Op. Atty. Gen. dated March 27, 1984 (enclosed) for a thorough discussion of the relevant law. Thus, it appears that neither organization would be required to follow the requirements of the Freedom of Information Act, though either organization would certainly be free to follow the letter and spirit of the Act if the members so chose.

Your second question, relating to reimbursement of expenses for attendance at meetings of these organizations which are held for purposes other than training, has been answered as to the directors and supervisors association in an opinion dated April 29, 1977, a copy of which is enclosed. The same conclusion would be applicable to the human services administrators association. The policy of the Department of Social Services has been to reimburse association members for attendance at association meetings which are strictly training meetings; you have not questioned this practice or policy.

We trust that foregoing is responsive to your inquiries. If you need clarification or additional assistance, please do not hesitate to advise this Office.

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With kindest regards, I am

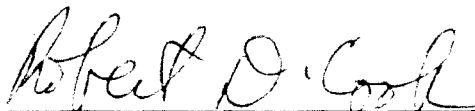
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:sds
Enclosures

REVIEWED AND APPROVED BY:



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EXECUTIVE ASSISTANT FOR OPINIONS