

1980 S.C. Op. Atty. Gen. 40 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-17, 1980 WL 81901

Office of the Attorney General

State of South Carolina

Opinion No. 80-17

February 5, 1980

**\*1 SUBJECT: Public information, House research survey open; Legislature, House research survey is open information;**

Documents compiled in a research survey and a tabulation of the resultant responses done by the Office of the Executive Director for House Research at the request of Representative Russell of the House of Representatives concerning H. 2193 are public records and are subject to public disclosure.

TO: Charles Traynor Ferillo, Jr.  
Executive Director  
Research and Personnel  
House of Representatives

QUESTION:

Does the South Carolina Education Association have a right under the Freedom of Information Act (§ 30-4-10, *et seq.*, of the South Carolina Code of Laws (1976)), to inspect or copy documents compiled in a research survey and a tabulation of the resultant responses done by the Office of the Executive Director for House Research at the request of Representative Russell of the House of Representatives concerning H. 2193?

STATUTES:

§§ 30-4-20, 30-4-30, 30-4-40.

DISCUSSION:

South Carolina Code of Laws (1976), § 30-4-20(c) defines 'public records' as including all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of or retained by a public body. § 30-4-20 defines 'public body' to include any public body, agency, or quasigovernmental body of the state, etc., supported in whole or in part by public funds or expending public funds. § 30-4-30 states that any person has the right to inspect or copy any public record of a public body unless specifically exempted under § 30-4-40 which lists matters exempt from disclosure.

You have indicated that the documents sought are survey letters regarding a bill which may be introduced by a member of the House, the response generated, and all reports, compilations, or other documents pertaining to these responses.

[Cooper v. Bales, 268 S.C. 270, 233 S.E.2d 306 \(1977\)](#), held that incomplete working papers were privileged and protected under the South Carolina Freedom of Information Act, however, I do not believe that this case is applicable. The [Bales](#) case involved a proposed school budget and agenda materials to be used in an administrative briefing in an executive session of a local school board. In addition, the statute under which [Bales](#) was decided has been repealed by § 30-4-10, *et seq.*, which became effective July 18, 1978. The present act is definitive of what need not be disclosed: trade secrets, information of a personal nature where

public disclosure would constitute an unreasonable invasion of personal privacy, records of law enforcement and public safety agencies compiled in an investigation of a crime, matters exempted from disclosure by law, documents concerning proposed contracts or the sale or purchase of property, salaries of employees below the level of department head and the work product of legal counsel. In an earlier opinion of the Attorney General, No. 77-133, p. 111 (1977), it was decided that informal working documents subject to discussion in executive session and incomplete working data presented in an administrative briefing need not be furnished under the Freedom of Information Act. I do not believe that this case comes within that opinion first in that your department is not a counsel or board which holds regular meetings such that you might take advantage of the administrative briefings exception, and secondly in that the cited opinion relied on Bales, supra, and the former statute which contained the provision, 'Nor shall the definition of public record include those records concerning which it is shown that the public interest is best served by not disclosing them to the public.' This exemption has been removed from the present Freedom of Information Act. It is the opinion of this Office that the documents sought are not exempt from disclosure and must be furnished for inspection or copying under § 30-4-30.

CONCLUSION:

\*2 The research survey and tabulation of the results of the responses to Mr. Ferillo's legislative research for Representative Russell are public records under § 30-4-20(c) and subject to the inspection or copying under § 30-4-30. There is no statutory exemption for this particular research. The South Carolina Freedom of Information Act is a statute propounded in the public interest and as such must be liberally interpreted in the public's favor. Therefore, documents not specifically exempt under the statute such as the surveys and resultant responses conducted and tabulated by your office are public records and subject to public disclosure.

Judith Evans Finuf

Assistant Attorney General

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