

1980 WL 120941 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 21, 1980

*1 Mr. Charles T. Ferillo, Jr.
Executive Director
Research and Personnel
House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Ferillo:

Mr. McLeod has referred your recent letter to me for reply. You have inquired if the Freedom of Information Act would require the election commissions to release the names of persons who have requested an absentee ballot.

South Carolina Code of Laws, 1976, Section 7-15-440 states that [t]he county election commission shall, after each election, prepare a list of all persons to whom absentee ballots were issued and all persons who cast absentee ballots. The list so compiled shall be made available for public inspection upon request. (emphasis added)

It is clear from this statute that information concerning the list of names of persons who have requested an absentee ballot is public. However, the statute speaks in terms of releasing this information after the election.

It would appear that the language of the statute would limit the timing of the release of the names of persons who have requested absentee ballots, until after the election. However, the statute does not make it clear if it thereby limits the availability of all information on the application for absentee ballots to only the list of names of persons who have requested an absentee ballot; and, therefore, has created an exemption to the Freedom of Information Act.

I have talked to the attorney in our Office who handles the Freedom of Information Act, Mrs. Judith Finuf, and she has advised me that there is no clear answer to your question. The Freedom of Information Act allows public access to records unless there is a specific exemption created. South Carolina Code of Laws, 1976, Sections 30-4-20(6) and 30-4-40. As I have stated in the preceding paragraph, it is not clear if Section 7-15-440 would be sufficient authority to exempt public access to the additional information on the application, i.e. absentee address.

Therefore, it would appear that Section 7-15-440 would prevent the release of the names of persons who have requested an absentee ballot until after the election and quite possibly may limit or prohibit access to the entire application. This conclusion may be further supported by the fact that the application requests the voter's social security number which, of course, would not be public information. However, only a court of competent jurisdiction could make a final determination on this question. Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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