

1974 S.C. Op. Atty. Gen. 342 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3906, 1974 WL 21402

Office of the Attorney General

State of South Carolina

Opinion No. 3906

December 9, 1974

***1 As an instrumentality of the State, the College of Charleston must make relocation payments to individuals displaced by acquisition of land.**

Project Director
Planning and Redevelopment Charleston
Charleston, S. C.

You have requested an opinion from this office as to whether families, individuals and businesses who are displaced by the College of Charleston are entitled to relocation payments, as required by Public Law 91–646, under State law.

Public Law 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, provides for the payment of various expenses of persons displaced from their homes, businesses or farms by federal and federally assisted programs and for the establishment of uniform and equitable land acquisition policies for federal and federally assisted programs.

Section 25–181 of the 1962 South Carolina Code of Laws, as amended, places the obligations imposed by Public Law 91–646 upon:

State agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in such programs . . .

who, according to Section 25–181, *et seq.*:

are empowered to expend available public funds for such purposes [*i.e.*, ‘programs or projects involving the acquisition of real property for public uses] and are required to make such payments to such displaced persons or other legal entities, whether the program or project is federally aided or not, and such expenditures shall be deemed part of the cost of such program or project.

The question becomes, therefore, whether the College of Charleston comes within the meaning of a ‘State agency or instrumentality,’ as described in Sections 25–181, *et seq.* Public Law 91–646 provides only a broad definition as follows:

The term ‘State agency’ means . . . any department, agency or instrumentality of a State or of a political subdivision of a State, . . . Title I, § 101(3).

That the College of Charleston is a State instrumentality is clear, especially in view of the language found in Section 22–1.2 of the 1962 Code, as amended (Cum. Supp.), which provides for the transfer of the College to the State to be operated as ‘a State-supported institution of higher learning.’ *Cf.*, 1968 Op. Atty. Gen. No. 2583 at 287 [a copy of which is herewith enclosed].

The opinion of this office, is, therefore, that the College of Charleston is subject to the ‘Relocation Payments’ requirements of Sections 25–181, *et seq.* Furthermore, Section 25–182 provides that this obligation arose as of July 1, 1972, and may be used to authorize payments for acquisition and relocation predating that date if federal funds are available for such earlier payments.

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