

1983 WL 181851 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 19, 1983

*1 Mr. John H. Porter, Jr., CPPO
Director of Purchasing and Warehousing
Richland County School District One
1616 Richland Street
Columbia, South Carolina 29201

Dear Mr. Porter:

You have asked my advice as to whether the Public Records Act, [Section 30-1-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, would allow Richland School District One to contract to store school district records 'in an off-site facility not owned by the school district, but which has been approved by the South Carolina Department of Archives'? Your inquiry makes specific reference to Section 30-1-70, which provides in pertinent part:

They [public records] shall be kept in the buildings in which they are ordinarily used except when they may be transferred for retention or disposal in accord with [§ 30-1-10](#) to [§ 30-1-140](#) or for public display by the appropriate authority. [Emphasis added.]

The Public Records Act ([§§ 30-1-10 to 30-1-140](#)) generally vests in the South Carolina Department of Archives and History broad authority to administer a records management program for the application of efficient and economical management methods and the creation, utilization, maintenance, retention, preservation and disposal of public records.

Section 30-1-80. Pursuant to the overall authority contained in the Act, the Archives may transfer records from their original location to other locations through a 'schedule establishing a time period for the retention of each series of records.' Section 30-1-90.

Section 30-1-70 authorizes the transfer of public records from the 'buildings in which they are ordinarily kept' only in accord with the Public Records Act. Compare, Section 30-1-30 (which prohibits unlawful removal of a public record 'from the office where it is usually kept . . .'). The Act appears to vest considerable discretion in the Archives to authorize the transfer of records to a particular location. The Archives must ultimately approve, by schedule, the transfer of public records, consistent, of course, with the purpose and intent of the statute.

However, the Act does not appear to require that such transfer necessarily be made to a facility located on the property of the 'agency where the records are ordinarily used', such as, in this instance, the property of the school district. Nor, is there a requirement in the Act that the facility necessarily be State owned. But, it must be remembered that it is the Archives which is empowered by the Act to authorize and approve, through a proper records schedule, the agency's transfer of records to another location.

Thus, I would advise that if the Archives prepares a proper records schedule, which authorizes the school district to transfer its records to an 'off-site facility not owned by the school district', there is nothing in the Public Records Act which prohibits such a transfer.

I hope this fully responds to your inquiry and if you have any further questions, do not hesitate to give me a call.

Very truly yours,

*2 Robert D. Cook
Assistant Attorney General

1983 WL 181851 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.