

1980 S.C. Op. Atty. Gen. 137 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-89, 1980 WL 81971

Office of the Attorney General

State of South Carolina

Opinion No. 80-89

August 21, 1980

***1 SUBJECT: Disclosure of information in personnel files of teachers in the possession of the South Carolina Department of Education.**

Age, experience, length of contract, and daily schedules of teachers are not subject to mandatory disclosure under the South Carolina Freedom of Information Act.

TO: Charlie G. Williams
State Superintendent of Education

QUESTION:

Are age, experience, length of contract, and daily schedules of teachers subject to disclosure under the South Carolina Freedom of Information Act?

STATUTES:

Section 30-4-10, *et seq.*

DISCUSSION:

The South Carolina Department of Education is a public body under the definition of South Carolina Code of Laws Section 30-4-20(a). Under the [South Carolina Code Section 30-4-30](#), any person has a right to inspect or copy any public record of any public body except as exempted under [Section 30-4-40 of the South Carolina Code of Laws \(1976\)](#). [South Carolina Code Section 30-4-20](#) defines public records as including all books, papers, maps, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used in the possession of or retained by public body. Under [Section 30-4-50, South Carolina Code of Laws \(1976\)](#), certain matters are declared public information. Among those matters are the names, sex, race, title and dates of employment of all public employees. Therefore, upon request these matters must be disclosed by statute. The disclosure of these items is mandatory in nature. [Section 30-4-40 of the South Carolina Code of Laws \(1976\)](#) lists specific matters exempt from disclosure. Included in this list which is exempt from disclosure is information of a personal nature where public disclosure thereof would constitute an unreasonable invasion of personal privacy.

The age, experience, length of contract and daily schedules of all teachers employed in a school district could certainly fit into this category. Especially age. Information relating solely to an individual's personal status should be exempt from disclosure as an individual personnel record.

Reviewing the August 5, 1977, Opinion and the August 11, 1978, Opinion, both of which dealt with the release of information in a public employee's personnel file and both of which are enclosed, it appears that only a public employee's grade, job description, and salary schedule for his particular classification should be released upon written request. Any other disclosure of personnel information should be done only with the consent of the employee or by Order of the Circuit Court.

Further, you have indicated that the above information is being sought in conjunction with a civil action which has already been filed. In [Nix v. United States, 572 F.2d 998 \(1978\)](#), the Fourth Circuit Court of Appeals stated that the purpose of the Freedom of Information Act ‘. . . is to inform the public about the action of government agencies. It was not designed to supplement the rules of civil discovery’. The request should be refused as to all data requested with the exception of the names, sex, race, title, and the dates of employment of the rest employees. By this procedure, the right of the requesting party is neither enhanced nor diminished because of his needs as a litigant but is rather measured by the right of the public to obtain the same information.

CONCLUSION:

*2 It is the opinion of this Office that by statute the names, sex, race, title, and dates of employment of all public employees when requested in writing must be furnished to the requesting party. Age, experience, length of contract, and daily schedules of all teachers employed in a school district constitutes information of a personal nature where the public disclosure thereof would constitute an unreasonable invasion of personal privacy absent the consent of the party about whom this information is sought. The Freedom of Information Act is not a supplement to a litigant's right to discovery and should not be used as such.

Judith Evans Finuf
Assistant Attorney General

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