

1977 S.C. Op. Atty. Gen. 180 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-243, 1977 WL 24585

Office of the Attorney General

State of South Carolina

Opinion No. 77-243

August 5, 1977

*1 TO: Director
State Personnel Division

QUESTION PRESENTED:

What items in a public employee's personnel file are required to be released under the Freedom of Information Act?

STATUTES, CASES, ETC:

Code of Laws of South Carolina, 1976, Section 30-3-10 et seq.;

Cooper, et al. v. Bales, et al., South Carolina Supreme Court Opinion No. 20387, filed March 17, 1977;

[Florence Morning News, Inc. v. Building Commission of Florence](#), 265 S. C. 389, 218 S. E. 2d 881.

DISCUSSION OF ISSUES:

Since the enactment of the South Carolina Freedom of Information Act, Code of Laws of South Carolina, 1976, Section 30-3-10 et seq., several opinions have been issued concerning the effect of this act on public personnel records.

Even prior to the passage of the FOIA, the Attorney General has indicated that public employee salaries should be public information. In 1976, after the decision in [Florence Morning News, Inc. v. Building Commission of Florence](#), — S. C., 218 S. E. 2d 881, the Attorney General determined that the actual payroll records showing the specific salary of a public employee are open to public inspection.

An opinion issued February 3, 1977, to the House of Representatives, determined that only an employee's annual salary and grade need to be made public and not the entire personnel file. The application for employment was likewise not available for public inspection. Since the February 3 Opinion, the South Carolina Supreme Court affirmed the lower court in Cooper, et al. v. Bales, et al., Opinion No. 20387, filed March 17, 1977. The lower court's decision in Cooper was the basis for determining that generally public personnel files are not open to public inspection under the FOIA.

With Cooper and this Office's prior opinions as a background, certain specific personnel information can be considered. Correspondence relating to audits of individual positions, which are individually identifiable and relate to one person's level of performance or ability should not be released. Such documents relate solely to the individual employee's personal status and should be considered exempt from disclosure as a personnel record.

Position questionnaires, which do not evaluate an individual, but merely describe the functions, duties, training and experience for a particular job, could be disclosed upon request. Such a document is an objective evaluation of a particular position of employment, and does not contain any data of a unique or individually personal nature. Like the employee's grade and salary, the job description, or position questionnaire should be considered a public record subject to disclosure.

The employee's work history with the State including promotions, demotions and the reasons therefor, are individually unique and should be exempt from disclosure as an individual personnel record.

The home address and the telephone number are likewise unique personal data in which an employee has a right to privacy. These items should be exempt from disclosure as individual personnel records.

*2 Performance appraisals, background investigations, employment applications, and disciplinary actions are all personally unique personal records and should not be disclosed to the public.

CONCLUSION:

Under the decision of the South Carolina Supreme Court in Cooper, et al., supra, the State of South Carolina and its political subdivisions should release only the employee's salary, grade, and job description upon request under the FOIA. Any further disclosure could come only if the employee authorizes the release or if a court of competent jurisdiction orders such disclosure.

George C. Beighley
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