

1978 WL 34656 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 16, 1978

*1 Frank S. Potts, Esquire
General Counsel
S. C. Department of Social Services
Post Office Box 1520
Columbia, SC 29202

Dear Mr. Potts:

I am writing this letter to acknowledge receipt of your opinion request of January 13, 1978. The first question you asked can be handled without issuing a formal opinion. The second issue, however, will require some research and will be forthcoming after that research is completed.

You have asked whether regulations, which were promulgated and filed with the Secretary of State prior to January 1, 1977, must be promulgated anew in accordance with the Administrative Procedures Act ([Code of Laws of South Carolina § 1-23-10 et seq.](#) (1976)). You have indicated that there have been no substantial changes in these regulations other than placing them in the new format required by the Legislative Council pursuant to their new regulations.

[Code of Laws of South Carolina § 1-23-160](#) provides that all regulations of state agencies promulgated according to law and filed with the Secretary of State as of January 1, 1977, shall have the full force and effect of law. Therefore the Department of Social Services would not have to comply with the Administrative Procedures Act provisions of regulation-making, if, as in this case, it is not amending or repealing prior regulations or promulgating new ones. It is suggested, however, that the regulations be published in the State Register in final form for informational purposes.

I have assumed that resolution of the first question does not render the second question moot and therefore that opinion will be forthcoming as soon as possible. If my assumption is incorrect, please let me know.

Sincerely yours,

Richard D. Bybee
Staff Attorney

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