

1979 WL 43088 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 26, 1979

***1 RE: Concerning confidentiality of adoption records.**

Mr. Virgil L. Conrad
Commissioner
South Carolina Department of Social Services
P. O. Box 1520
Columbia, South Carolina 29202

Dear Mr. Conrad:

You have directed to this office an inquiry regarding an investigation by the Human Affairs Commission of an adoption matter presently being litigated in the Lexington County Family Court. It is our understanding that the investigation is not employment related but, rather, involves a Complaint against an adoption specialist who removed children from an adoptive home based upon evidence of child abuse. No formal Complaint has been filed with the Human Affairs Commission, and you wish to know the extent to which your records may be disclosed, if at all.

Applicable State law provides that the records of the Department of Social Services of South Carolina pertaining to adoption proceedings 'shall be confidential and withheld from inspection except upon order of court for good cause shown.' [S.C. Code, § 15-45-140\(c\) \(1976\)](#). Regulation 114-65.1(A)(4). Furthermore, applicable federal regulations require disclosure of information regarding recipients of services to be restricted to those governmental agencies having the same standards of confidentiality as the Department of Social Services. Although the aforementioned regulations are presently undergoing some revision, it is not expected that the confidentiality standards will be relaxed. It should suffice to say that information regarding case material should only be disclosed for purposes connected with administration of this State's welfare service plan, and that such information should be disclosed only to an agency subject to the same confidentiality standards as the Department of Social Services. See Op. Atty. Gen., February 15, 1979.

An examination of the recently revised Human Affairs Law and Regulations, copies of which are enclosed herewith, indicates that any information disclosed to the Human Affairs Commission may become public at the time that it is offered and received into evidence at a Commission hearing or court proceeding brought in accordance with the Human Affairs Act. [S.C. Code, § 1-13-90\(c\)\(1\), \(d\)\(2\) \(1976\)](#). [Regulation 65-3\(B\)\(11\)](#). Therefore, it is readily apparent that the Human Affairs Commission is not subject to the same standards of confidentiality as the Department of Social Services.

In any event, it is apparent that a Department of Social Services' adoption matter is not the proper subject of a Human Affairs Commission investigation. A Complaint before the Human Affairs Commission is a written charge alleging an unlawful employment practice as defined by [S.C. Code, §§ 1-13-80 and 1-13-90\(a\) \(1976\)](#). See [Regulations 65-1\(B\)\(4\)](#). A 'Complainant' before the Human Affairs Commission is a person aggrieved by an unlawful employment practice. [S.C. Code, § 1-13-30\(i\) \(1976\)](#). Furthermore, the Human Affairs Commission may only make binding rulings upon a finding of an unlawful discriminatory practice, which is defined as an employment related practice by virtue of [§ 1-13-80. S.C. Code, § 1-13-90\(c\)\(16\) \(1976\)](#). Finally, an investigation made by the Human Affairs Commission is limited only to facts relating to an unlawful employment practice. [S.C. Code, § 1-13-90 \(1976\)](#). [Regulation 65-3\(A\)\(5\)](#). Therefore, it appears that an investigation into adoption matters, which are not employment related, cannot pass muster of the good cause requirement under [§ 15-45-140\(c\)](#).

*2 If you have any additional questions or comments concerning the above, please do not hesitate to contact the undersigned at this office.

Very truly yours,

Brian P. Gibbes
Assistant Attorney General

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