

1978 S.C. Op. Atty. Gen. 189 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-158, 1978 WL 22626

Office of the Attorney General

State of South Carolina

Opinion No. 78-158

September 19, 1978

*1 A School principal possesses the requisite amount of independent authority and control to be considered a 'department head' for purposes of the new Freedom of Information Act, and hence, his salary is subject to disclosure.

Mr. John C. Cone
Executive Director
South Carolina School Board Association
1706 Senate Street
Columbia, South Carolina 29201

Dear Mr. Cone:

You have requested an opinion from this Office concerning the new Freedom of Information Act. Although you do not represent a State entity, your membership is composed of public officials who have asked for the information contained herein.

Specifically, you would like to know if a school principal is considered a 'department head' for purposes of the Act, which provides for the release of salaries of employees down to and including the level of 'department head'.

Section 5(a)(6) of the Act provides that 'salaries of employees below the level of department head' may be exempt from disclosure. Because the statute does not provide a definition of 'department head', 76 C.J.S., Records, Section 35, aids in its construction:

While statutes in derogation of the common-law right of inspection should be strictly construed, and will not be unduly extended, statutes conferring the right to inspect or use public records should be liberally construed in favor of inspection (emphasis added).

Therefore, it is apparent that the policy of the Act is that disclosure requirements are to be construed broadly and exceptions construed narrowly. However, it is equally clear that the General Assembly did not intend to include under the term 'department head' those employees who possess only a minimal amount of independent authority and control.

Therefore, it is the opinion of this Office that a school principal possesses the requisite amount of independent authority and control to be considered a 'department head' for purposes of the new Freedom of Information Act, and hence his salary is subject to disclosure.

You have also inquired about the status of various other public school employees: the assistant principal; guidance director; librarian; and the head of the English Department. It is the opinion of this Office that these employees, with the exception of the head of the English Department, do not possess sufficient independent authority and control to warrant the status of 'department head'. These individuals' salaries would appear to come under the Section 5(a)(6) exemptions. However, the head of the English Department is technically a 'department head' and, therefore, this person's salary comes within the disclosure requirements of the F.O.I.A.

Sincerely yours,

George C. Beighley
Assistant Attorney General

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