

1978 WL 35274 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 20, 1978

**\*1 RE: Freedom of Information Act—Grievance Proceedings**

Roy McBee Smith, Esquire  
County Attorney  
Suite 411 Montgomery Bldg.  
P. O. Box 5306  
Spartanburg, SC 29304

Dear Mr. Smith:

Your letter of December 11, 1978, to the Attorney General requesting the opinion of this Office regarding the interpretation of the Freedom of Information Act has been forwarded to me for response. You state in your letter that a request has been made of the Spartanburg County Grievance Committee to provide a copy of the transcript of a grievance proceeding held pursuant to a county ordinance similar to South Carolina Code of Laws, 1976, Section 8-17-110. The employee has not consented to disclosure of the transcript. You wish to know whether the Committee is required to make such disclosure.

South Carolina Code of Laws, 1976, Section 4-9-30(7) requires the Spartanburg County Council to provide a public hearing before it for a discharged employee who makes such a request. The employee has, however, the right to elect to submit his grievances to the County Grievance Committee and the manner of such a hearing is governed by the rules adopted by the Committee.

The Spartanburg County Grievance Committee has elected to employ procedures similar to those provided in [Section 8-17-110, South Carolina Code](#) of Laws, 1976, which is silent on the question of whether the proceedings before the Committee shall be public or private. Act No. 593 of 1978 (the Freedom of Information Act) Section 8(a) refers to [Section 8-17-110](#) and suggests that the employee, who otherwise has the right to demand a public hearing, may not demand that such a hearing be conducted publicly. However, it is not necessary in order to respond to your inquiry, to resolve whether the Act prohibits such a hearing to be held publicly if demanded by the employee since in this instance no demand was made.

The Spartanburg County Grievance Committee is a 'public body' within the meaning of the Freedom of Information Act as a part of a political subdivision of the State. Section 3(a). Section 8(a)(1) specifically permits a public body to go into executive session in order to discuss 'the employment . . . demotion discipline or release of an employee . . .' This provision clearly governs grievance proceedings relating to the subjects enumerated. The Committee unquestionably had the discretion to go into executive session for the purpose of such discussion when no request for a public hearing was made by the employee. I assume, as you suggest, that a proper vote was taken as required by the Act in order to go into executive session.

Since the meeting was properly closed to the public, the question then arises whether the transcript must be released upon request as a public record. Our Supreme Court held under the preceeding Freedom of Information Act: Section 1-20.3 [authorizing executive session] would be rendered meaningless if Section 1-20.2 [requiring disclosure of public records] was construed to publicize all matters discussed in executive sessions. Authorized closed meetings with

mandated revelation of the records of such meetings would produce an irreconcilable and nonsensical result and we refuse to apply such an interpretation.

\*2 [Cooper v. Bales](#), — S.C. 233 S.E.2d 306 (1977). The same reasoning applies to the present Act.

It is therefore the opinion of this Office that the transcript of proceedings held before the Spartanburg County Grievance Committee in a proper executive session is not required to be disclosed under the Freedom of Information Act.

I hope that this has been of some assistance to you. I would also like to thank you personally for the cogent and well-researched manner in which you presented your request. Your well considered elucidation of the issue made resolution of the question considerably less difficult. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Katherine W. Hill  
Assistant Attorney General

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