

1974 S.C. Op. Atty. Gen. 334 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3900, 1974 WL 21396

Office of the Attorney General

State of South Carolina

Opinion No. 3900

December 4, 1974

***1 The Freedom of Information Act does not require disclosure to the public of records made of matters discussed in legitimate executive sessions.**

Attorney at Law
Greenville, S. C.

You inquire if minutes or other records made of matters handled in legitimate executive sessions, as provided in Section 1–20.3(b), become public records under the definition thereof in Section 1–20.1.

Execution sessions of public agencies are permitted for the following purposes:

- a. Consideration of employment, etc., of an employee, administrative briefings and committee reports;
- b. Negotiations incident to the sale of property, the receipt of legal advice, or the position of the agency in other adversary situations;
- c. Private matters presented by individuals or groups of citizens;
- d. The consideration of certain other specifically designated matters.

By the provisions of Section 1–20.1, ‘public records’ includes all records kept in the conduct of the public’s business and relating thereto. Records such as income tax returns, medical records, scholastic records, adoption records, records required to be closed to the public, and records concerning which it is shown that the public interest is best served by not disclosing them to the public are not included within the meaning of ‘public records.’

Obviously, the authorized privacy of legitimate executive sessions recognized in Section 1–20.3(b) would be defeated if a record of such executive sessions is made and disclosure of the records compelled under Section 1–20.1. Otherwise, authorized privacy of discussion would be rendered meaningless if the content of the discussion can be opened to public inspection once a record is made of it. I think that the two sections must be construed together and, so construed, it is my opinion that records made of matters discussed or considered in legitimate executive sessions, as provided in Section 1–20.3(b), are not public records within the meaning of Section 1–20.1.

Daniel R. McLeod
Attorney General

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