



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

August 11, 2015
OPINION 15-0086

Lois V. Simpson
Advocacy Center
8325 Oak Street
New Orleans, LA 70118

90-C Public Records

La. Const. art. XII, § 3 La. R.S. 44:1 *et seq.*

The Advocacy Center is a non-profit entity performing a governmental function and receiving public funds. As such, it is considered a quasi-public body subject to the Public Records Law (La. R.S. 44:1 *et seq.*), but only to the extent that its records and/or documents are connected to the receipt or expenditure of public funds.

Dear Ms. Simpson:

On behalf of the Advocacy Center ("Center"), you have requested an Attorney General's opinion as to whether the Center is subject to the Louisiana's Public Records Law. If the answer is affirmative, you question whether records containing job descriptions of the Center staff are subject to production under the Louisiana Public Records Act.

You indicate the Center received a request related to job descriptions that were in effect six years ago; however, since the Center determined that such records were not relevant to the requestor's objective, they were not produced.

The right of access to public information is guaranteed by La. Const. art. XII, § 3, which provides, "[n]o person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law." The Public Records Act, La. R.S. 44:1 *et seq.*, was enacted by the Louisiana Legislature to protect and define the constitutional right of access to public documents.¹

Pursuant to La. R.S. 44:1(A)(1), the Public Records Law applies to all public bodies, including "a public or quasi-public nonprofit corporation designated as an entity to perform a governmental or proprietary function." The Supreme Court of Louisiana in *Guste v. Nicholls College Foundation*, 564 So. 2d 682 (La. 1990), and the First Circuit, on remand, at 592 So. 2d 419 (La.App. 1 Cir. 1991) *writ denied*, 593 So. 2d 651 (La. 1992), confirmed that intrinsically private, non-profit corporations, to the extent they take on the performance of a governmental function and use public funds and resources, are subject to the Public Records Act. The inspection of public records, however, is limited to those records related to the use of public funds.² The *Nicholls* court stated:

¹ La. Atty. Gen. Op. No. 14-0010.

² *Carter v. Fench*, 322 So. 2d 305, 307 (La. Ct. App. 1975) *writ denied*, 325 So. 2d 277 (La. 1976).

If a private corporation accepts public money from a public body in the discharge of the latter's constitutional or legal duties, it must disclose records *concerning those transactions*, including the receipt and expenditure of those funds. If those corporations wish to avoid divulging nonpublic receipts and expenditures, they need only maintain separate and distinct books, accounts and records.³ (Emphasis added).

Your request states that the Center is a non-profit, quasi-public entity organized in 1977 and designated by the then Governor as the protection and advocacy system for Louisiana. According to its own website, the Center receives public funds from the federal, state and local government to perform a governmental function by providing numerous services to the public in general.⁴ As such, the Center is considered a quasi-public body under La. R.S. 44:1(A)(1) and it subject to the Public Records Law.⁵

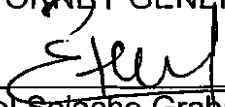
Whether the Center's staff job descriptions are subject to public inspection depends on whether those records are related to the use of public funds received from a public entity. Thus, consistent with the *Nicholls* decision, it is the opinion of this office that the Center's staff job descriptions are considered private records not subject to public inspection unless they are connected with the receipt or expenditure of public funds.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By:


Ethel Solache Graham
Assistant Attorney General

JDC: ESG

³ *Nicholls*, *supra*, at p. 689.

⁴ <http://www.advocacyla.org/index.php/funding-sourcesgrants.html>. (Last visited 7/30/15).

⁵ See La. Atty. Gen. Op. Nos. 06-0171, 02-36, 79-1003A, and 79-858.