



State of South Carolina

In the Court of Common Pleas

County of Richland

Fifth Judicial Circuit

Plaintiff: American Civil Liberties Union of
South Carolina Foundation

File No. 2026-CP-40-

vs.

Defendant: State Election Commission

Summons

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

D. Allen Chaney Jr.

Attorney for Plaintiff Signature



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Dated: September 17, 2026

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

American Civil Liberties Union of
South Carolina Foundation,

Plaintiff,

v.

State Election Commission,

Defendant.

**IN THE COURT OF
COMMON PLEAS
FIFTH JUDICIAL CIRCUIT**

Case No.: 2026-CP-40-_____

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Upon information and belief, Plaintiff American Civil Liberties Union of South Carolina Foundation (ACLU-SC) alleges the following:

INTRODUCTION

1. In 2025, the United States Department of Justice (DOJ) demanded—for the very first time—access to South Carolina’s full, unredacted statewide voter registration list.¹

2. Then-Executive Director of the State Election Commission (SEC), Howard Knapp, resisted this unprecedented demand, which would reveal sensitive personal identifying information about millions of South Carolinians.

3. Amidst the internal dispute over whether to comply with DOJ’s demand, Chairman the Honorable Dennis Shedd privately contacted other SEC commissioners to discuss the removal of Knapp.

4. Then, on September 17, 2026, Defendant SEC—a “public body” within the meaning of the Freedom of Information Act (FOIA)—convened an inadequately-noticed executive session meeting, conducted a private adversary hearing regarding

¹ See *Federal Requests for Statewide Voter Lists*, Nat’l Conf. of State Leg. (Sept. 15, 2026), <https://tinyurl.com/yc2pckay>.

the removal of then-Director Knapp, secretly polled board members while still in executive session, and then publicly voted 3-2 to remove then-Director Knapp.

5. The episode “rocked” the SEC with “chaos and uncertainty.” See Ted Clifford & Lucy Valeski, *A Director Fired. A Secret Recorder. Inside a Chaotic Day at SC Election Agency*, The State (Oct. 7, 2025), <https://tinyurl.com/mkbbde2v>.

6. The SEC’s conduct before and during its September 17, 2025, meeting violated the text and purpose of FOIA and deprived Plaintiff ACLU of South Carolina and the citizens of South Carolina of their right to oversee critical government activity.

PARTIES

7. **Plaintiff American Civil Liberties Union of South Carolina Foundation (ACLU-SC)** is a nonprofit and nonpartisan membership organization registered in the State of South Carolina. ACLU-SC is a resident of South Carolina and a “person” as defined by FOIA. See S.C. Code § 30-4-20(b) (defining “person” to include “any . . . organization or association”).

8. **Defendant State Election Commission (SEC)** is a body politic and subagency of South Carolina government created pursuant to S.C. Code Ann. § 7-3-10, *et. seq.*

9. The SEC is a “public body” as defined in the Freedom of Information Act, S.C. Code Ann. § 30-4-20.

JURISDICTION & VENUE

10. This Court has jurisdiction under S.C. Code Ann. § 30-4-100, which permits “any citizen of the State” to “apply to the circuit court for a declaratory judgment, injunctive relief, or both” to enforce FOIA.

11. Venue in the Fifth Judicial Circuit is proper because Defendant SEC is located in the Fifth Judicial Circuit in Richland County.

STATEMENT OF FACTS

Freedom of Information Act

12. FOIA operationalizes the General Assembly's finding that "it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy." S.C. Code Ann. § 30-4-15.

13. "The essential purpose of the FOIA is to protect the public from secret government activity." *Campbell v. Marion County Hosp. District*, 354 S.C. 274, 280, 580 S.E.2d 163, 166 (2003). Indeed, it "was designed to guarantee the public reasonable access to certain activities of the government." *Fowler v. Beasley*, 322 S.C. 463, 468, 472 S.E.2d 630, 633 (1996).

14. In furtherance of that principle, FOIA requires public bodies to follow specific procedures when limiting public access to their meetings.

15. To start, "[n]o chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power." S.C. Code Ann. 30-4-70(c).

16. Pursuant to Section 30-4-70(b), "[b]efore going into executive session the public agency shall vote in public on the question and when the vote is favorable, the presiding officer shall announce the specific purpose of the executive session." Under the statute, "'specific purpose' means a description of the matter to be discussed as identified in items (1) through (5) of subsection (a) of this section." *Id.*

17. "No action may be taken in executive session except to (a) adjourn or (b) return to public session. The members of a public body may not commit the

public body to a course of action by a polling of members in executive session.” S.C. Code Ann. § 30-4-70(b).

18. Further, “if an adversary hearing involving [an] employee . . . is held, the employee . . . has the right to demand that the hearing be conducted publicly” instead of in an executive session. S.C. Code Ann. § 30-4-70(a)(1).

19. A FOIA violation is “an irreparable injury for which no adequate remedy at law exists.” S.C. Code Ann. § 30-4-100.

Department of Justice Voter Roll Request

20. In 2025, the Department of Justice began requesting access to the voter registration databases of numerous states, including South Carolina. *See, e.g.,* Maayan Schechter, *DOJ Demands South Carolina Turn Over Voter Registration List*, S.C. Public Radio (Aug. 29, 2025), <https://tinyurl.com/mwschdu5>.

21. DOJ’s request would enable the federal government to “amass a federal database of personal information about every registered voter in the country,” raising concerns that the database could be used to “target political opponents”; be invoked in an “attempt to force states to remove voters from the rolls based on incomplete information”; or “become a prime target for hackers.” Eileen O’Connor, *Justice Dep’t Has Demanded Voter Files From at Least 27 States*, Brennan Center for Justice (Sept. 15, 2025), <https://tinyurl.com/yfutb8jj>.

22. Howard Knapp, then the Executive Director of the State Election Commission, resisted the federal government’s demand for unfettered access to South Carolina voter data.

23. That resistance provoked the ire of President Trump’s allies in South Carolina, including the Governor and some members of the SEC.

24. On August 29, 2025, a lawsuit was filed in state court seeking to enjoin the SEC from disclosing the voter roll data sought by DOJ. *See Crook v. State Election Comm’n*, No. 25-CP-09-00195 (Calhoun Cnty.).²

Chairman Shedd’s Contact with Commissioners

25. In advance of a public meeting scheduled for September 17, 2025, Chairman Shedd separately contacted Commission members about the substance of that meeting.

26. In those discussions, Chairman Shedd accused Mr. Knapp of colluding with opposing counsel in the *Crook v. State Election Commission* case and urged Commissioners to take adverse employment action against Mr. Knapp.

27. This was not the first time Chairman Shedd attempted to conduct official SEC business outside of a public meeting. After becoming Chairman in 2024, he separately contacted Commission members concerning the termination of Mr. Knapp.

SEC’s September 17, 2025, Meeting

28. On September 17, 2025, the SEC held a “called meeting” with a published agenda and published minutes.

29. As soon as the meeting began, Chairman Shedd moved for the SEC to go into executive session for “personnel matters.”

30. No further information or description was offered.

31. The motion was seconded, and upon a vote of 4-1, the Commission entered executive session.

32. Knapp was not allowed to attend the executive session.

² The venue was later changed, and the case proceeded in Richland County under Case No. 25-CP-4006539.

33. This diverged from the SEC's typical practice of including Knapp in all meetings.

Secret Adversary Hearing to Remove Howard Knapp

34. During the executive session, the SEC held an adversary hearing regarding the potential termination of then-Director Knapp.

35. The hearing lasted several hours and included the interrogation of several witnesses.

36. The SEC went to extraordinary lengths to ensure that the executive session was shielded from public scrutiny.

37. For example, each witness was questioned individually and then sequestered for the remainder of the executive session. While sequestered, each witness was accompanied by a human resources representative from the SEC and guarded by Bureau of Protective Services officers. At least one witness was instructed not to use her telephone or leave the waiting area without permission.

38. Documentary evidence was presented against then-Director Knapp, including printed images of a private text chain between SEC employees.

39. Copies of those exhibits were individually numbered, and witnesses and participants were warned that the numbering ensured that leaks and leakers, if any, could be identified.

40. Following the presentation of evidence, commissioners were polled regarding the removal of then-Director Knapp.

41. Knapp was not notified that the executive session concerned his employment and was given no opportunity to demand that the hearing be conducted publicly, as required by Section 30-4-70(a)(1).

42. If asked, Knapp would have demanded a public "adversary hearing."

43. If the hearing had been conducted in accordance with such a demand, the public (including Plaintiff ACLU-SC) would have had insight into the SEC's dismissal of then-Director Knapp.

44. After concluding the executive session, the Commission publicly voted 3-2 to remove then-Director Knapp.

CLAIMS FOR RELIEF

First Claim for Relief

S.C. Code Ann. § 30-4-70(c)

“Circumvention”

45. Plaintiff hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

46. FOIA commands that “[n]o chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.” S.C. Code Ann. § 30-4-70(c).

47. Defendant SEC circumvented the spirit and requirements of FOIA by conducting official business outside of a public meeting. Specifically, Chairman Shedd violated FOIA by contacting individual commissioners one-by-one to lobby for the removal of then-Director Knapp. *See* S.C. Att’y Gen. Op. (Feb. 18, 2021), <https://tinyurl.com/52bamdnk> (“Public officials may not circumvent public discussion by splintering the quorum and having separate or serial discussions . . . in person, by telephone, electronically, or through other means.” (quoting 2005 Ariz. Op. Att’y Gen. No. I05-004 (July 25, 2005))).

Second Claim for Relief

S.C. Code Ann. § 30-4-70(b)

Nonspecific Announcement of Executive Session

48. Plaintiff hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

49. “Before going into executive session the public agency shall vote in public on the question and when the vote is favorable, the presiding officer shall announce the specific purpose of the executive session.” S.C. Code Ann. § 30-4-70(b). Under the statute, “‘specific purpose’ means a description of the matter to be discussed as identified in items (1) through (5) of subsection (a) of this section.” *Id.*

50. Defendant SEC violated FOIA by failing to announce the specific purpose of the September 17, 2025, executive session.

51. The description offered here—discussion of “personnel matters”—does not satisfy FOIA’s specificity requirement. *See Donahue v. City of N. Augusta*, 412 S.C. 526, 531–32, 773 S.E.2d 140, 142–43 (2015) (describing the purpose of an executive session as discussing a “proposed contractual matter” was insufficient); *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 164, 547 S.E.2d 862, 866 (2001) (“FOIA is not satisfied merely because citizens have some idea of what a public body might discuss in private.”).³

³ *See also* Op. Att’y Gen. S.C. (Oct. 9, 2023), available at <https://www.scag.gov/media/wfbjehss/03409255.pdf> (“Our opinions have long concluded that announcement of an executive session through a generalized purpose such as ‘personnel matters’ or ‘employment matters’ . . . are not in compliance with FOIA’s requirement that the ‘specific purpose’ of the executive session must be announced.”); Op. Att’y Gen. S.C., No. 88-9, 1988 WL 383492, at *2 (Jan. 26, 1988) (“Because the General Assembly has mandated that the specific purpose of an executive session be announced prior to so convening, we do not deem an announcement that ‘personnel matters’ will be discussed to be in compliance with Section 30–4–70(a)(6).”).

52. “[G]iven the history and the purpose of FOIA,” violation of the specific purpose requirement is “more than a ‘technical violation.’” *Quality Towing*, 345 S.C. at 165; 547 S.E.2d at 866.

Third Claim for Relief
S.C. Code Ann. § 30-4-70(a)(1)
Secret Adversary Hearing

53. Plaintiff hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

54. FOIA commands that “if an adversary hearing involving [an] employee . . . is held, the employee . . . has the right to demand that the hearing be conducted publicly” instead of in an executive session. S.C. Code Ann. § 30-4-70(a)(1).

55. Defendant SEC gave then-Director Knapp no notice that an adversary hearing was happening or that it was about his removal. Thus, SEC denied Knapp his right to demand a public hearing.

56. By denying then-Director Knapp that right, which he would have invoked, Defendant SEC deprived citizens of South Carolina, including ACLU-SC, of the ability to witness and oversee the SEC’s actions.

Fourth Claim for Relief
S.C. Code Ann. § 30-4-70(b)
Voting in Executive Session

57. Plaintiff hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

58. FOIA forbids “polling of members in executive session.” S.C. Code Ann. § 30-4-70(b).

59. Defendant SEC violated FOIA by polling commissioners during executive session.

60. Even though a formal vote was taken in open session, informal polling during executive session still violates FOIA. *See Miramonti v. Richland County School District One*, 438 S.C. 612, 617, 885 S.E.2d 406, 408 (Ct. App. 2023) (finding a violation when the public body “decided how to respond . . . during executive session,” even though no vote was taken).

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully prays that the Court:

- a. Set a hearing on this action within **ten days** of service of the Complaint, as required under S.C. Code § 30-4-100(A), *see Osmundson v. Sch. Dist. 5 of Lexington & Richland Cntys*, 443 S.C. 610, 614–15, 905 S.E.2d 418, 420–42 (Ct. App. 2024);
- b. Declare that Defendant SEC violated the South Carolina Freedom of Information Act by:
 - i. conducting business outside of a public meeting;
 - ii. failing to give proper notice of the purpose of the September 17, 2025, executive session;
 - iii. conducting an adversary hearing regarding then-Director Knapp without permitting Knapp to demand that the hearing be conducted publicly; and
 - iv. and polling of the Commission members in secret during the September 17, 2025, executive session;
- c. Order Defendant SEC to issue amended minutes that identify the specific purpose of the executive session held on September 17, 2025;
- d. Order Defendant SEC to disclose any and all documents, recordings, and/or other materials pertaining to the executive session held on September 17, 2025;
- e. Award attorney’s fees and costs accrued in furtherance of this action, as provided for by S.C. Code § 30-4-100(b), *see also Sloan v. Friends of Hunley, Inc.*, 393 S.C. 152, 159, 711 S.E.2d 895, 896–98 (2011) (“[A]warding attorney’s fees . . .

may serve as an impetus for public bodies to comply with a FOIA request”);

- f. And order any other such relief as deemed appropriate by the Court.

DATE: September 17, 2026

Respectfully submitted,

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