

ADMINISTRATIVE MEMORANDUM

SUBJECT Publications and mailing lists of State agencies

NUMBER 184

DATE September 9, 1983

This Administrative Memorandum supersedes Administrative Memorandum Number 169 (dated June 23, 1982) and provides guidance in administering General Statutes Chapter 143, Article 13 ("Publications" of State agencies) as amended by Chapter 866, 1983 Session Laws, effective October 1, 1983. By addressing all of G.S. Chapter 143, Article 13 (hereinafter, generally, "the statute"), this Administrative Memorandum covers not only regulation of the mailing lists of State agencies but all other provisions of Article 13 as amended by Chapter 866 (hereinafter, "the session law"). The statute as amended is attached to this Administrative Memorandum.

Annual and biennial reports of State agencies. Section 1 of the session law deletes from G.S. 143-168 the prior mandate to the Department of Administration to make rules governing scope, format, method of reproduction, and the quantity of the annual or biennial reports of State agencies. The requirement that such reports be compact, concise, and lucid continues.

Other publications. Section 2 of the session law deletes from G.S. 143-169 the prior mandate to the Department of Administration to make rules governing format, number of copies, and method of reproduction of the publications, other than annual or biennial reports, of State agencies. Limitation on use of "the multicolor [full-color] process" under G.S. 143-169 continues unaltered.

Public document mailing lists. Sections 3, 4, and 5 of the session law make significant changes to G.S. 143-169.1, concerning the mailing lists for public documents of State agencies. As amended, G.S. 143-169.1 requires that mailing lists be kept current by annual review under the following limitations and procedures:

1. G.S. 143-169.1(a) governs only State agencies. Such agencies include University offices, administrative offices, academic departments, and the Board of Trustees, for example, but not separately incorporated and privately supported agencies like the athletics booster clubs, alumni associations, and foundations at some of our institutions.
2. G.S. 143-169.1(a) covers only the mailing lists for "public documents," which by reference to G.S. 143-169.1(b)
 - include only those publications that are "printed," i.e., reproduced in tangible form by some repetitive process (thereby excluding a computer printout or CRT display at a local or a distant terminal).

- include only those publications printed in a quantity of at least 200 copies. Presumably the threshold of 200 is to be referenced to the number of copies of a publication printed under one order or related series of orders by the issuing agency.
- exclude "intra-agency communications" (e.g., this Administrative Memorandum).
- exclude "agency correspondence," which is understood to be any written communication whose address label and content speak to an identifiable person or organization or group of identifiable persons or organizations (e.g., a letter from the membership chairman of the institution's concert artists series to each previous series member, whether actually named or not).

3. G.S. 143-169.1(a) requires that State agencies issuing public documents review, update, and correct the mailing list for each public document within 12 months preceding the annual certification of the update. This certification must be rendered on or before each July 1 from the agency head to the Director of the Budget (the Governor). Under G.S. 143-169.1(a) the following limitations to this requirement are established:

- To be subject to the statute, the public document must be issued by a State agency. Thus, the use of State-appropriated funds would have to be employed to print and mail the document for the document to be considered State-issued.
- The document must have been distributed or contemplated for distribution by mail. Excluded, then, would be hand-distributed or State-courier-distributed publications.
- Reipients of a public document distributed under express provision of statute need not be reviewed under the annual update provision; e.g., distributees of certain State publications from the Secretary of State pursuant to G.S. 147-45.
- Recipients of a public document distributed under express provision of judicial order need not be reviewed under the annual update provision; e.g., recipients of University public documents pursuant to conditions of the Consent Decree in N.C. v. Department of Education (E.D.N.C. No. 79-217-CIV5).

4. G.S. 143-169.1(a) requires that mailing lists of public documents be updated at approximately 12-month intervals, using June 30 to mark the permissible later limit of each update period. However, if a public document is distributed on a one-time basis, no update need be undertaken until it is determined, if ever, to redistribute the document after an intervening update.

Similarly, multiple distributions of public documents within a 12-month period not extending beyond a calendared update would not bring a publication under statutory coverage for update purposes.

5. G.S. 143-169.1(a) requires that mailing lists governed by the statute be updated so as to comprise only "those persons and organizations who, within the previous 12 months, have either requested that they be included in such a mailing list or have renewed a request that they be so included." However, if a person or organization receives a governed publication by reason of the recipient's office or official duties, e.g., the State Librarian, the recipient should be presumed or deemed to have requested the pertinent publication or renewed that request whether or not such request or renewal was actually transmitted to the issuing State agency.

Statement of cost of public documents. Section 6 of the session law adds a new requirement to the issuance of public documents. It requires that each public document, unless "published for the principal purpose of sale to the public," show on the document near the identification of its issuer, the following:

- total cost of the printing.
- number of copies in the printing.
- per-unit cost.

The wording of the statement prescribed by new G.S. 143-170.1 is

(Number of copies) copies of this public document were printed at a cost of \$ _____, \$ _____ per copy.

G.S. 143-170.1 defines "cost" to include only the cost of labor and materials of the reproduction process; and the cost notice otherwise pertains only to publications meeting the definition in G.S. 143-169.1(b) of "public document."

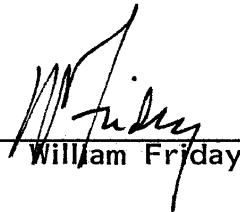
Compliance. Section 7 of the session law makes G.S. Chapter 143, Article 13, as amended, effective on October 1, 1983, and requires the notice of printing costs only for public documents printed "after October 1, 1983." Section 7 places the responsibility of compliance on the "chief administrator of the agency authorizing the printing." In accordance with these legislative provisions and in harmony with prior administrative action by this office concerning mailing lists subject to G.S. 143-169.1, I am taking hereby the following action to assist The University in complying with G.S. Chapter 143, Article 13:

- a. Requesting each Chancellor to continue as the certifying officer for all mailing lists generated at his respective institution that are subject to update pursuant to G.S. 143-169.1.
- b. Requesting that in rendering the certification to the Director of the Budget as required under the statute, the certifying officer use the following wording:

I hereby certify that any mailing lists of (name of constituent institution) subject to the provisions of G.S. 143-169.1, have been carefully reviewed, updated, and corrected within the 12-month period ending June 30, 19__, so that any mailing lists of this institution subject to the provisions of G.S. 143-169.1 were in compliance with the requirements of Chapter 362 as of June 30, 19__.

- c. Requesting that the certifying officer continue, not later than July 1 of each year, to send directly to the Director of the Budget the foregoing certification.
- d. Requesting each Chancellor to provide at his institution for the cost accounting of public documents prescribed by G.S. 143-170.1.

Future guidance. It is known that at this time the Department of Administration has not issued, but may later issue, guidance or regulations for compliance with G.S. Chapter 143, Article 13, as amended. If these are later issued, we will accommodate them by further communication from this office. Questions concerning this Administrative Memorandum may be directed to Mr. David Edwards of this office.



William Friday

Attachment

G. S. CHAPTER 143

ARTICLE 13.

Publications.

§ 143-167: Transferred to G.S. 147-54.1 by Session Laws 1943, c. 543.

§ 143-168. Reports; conciseness; controls.

The annual or biennial reports now authorized or required to be printed by the several State agencies and institutions shall be as compact and concise as is consistent with an intelligent understanding of the work of those agencies and institutions. The details of the work of the agencies and institutions shall not be printed when not necessary to an intelligent understanding of such work, but totals and results may be tabulated and printed in their reports. ~~The Department of Administration shall make such rules as may be necessary prescribing the scope and format of the matter to be published in annual or biennial reports, the methods of reproduction to be employed, and the number of copies of such reports to be published by the several State agencies and institutions.~~

§ 143-169. Limitations on publications.

~~(a) The Department of Administration shall make such rules as may be necessary prescribing the format of the matter to be published, the number of copies to be published, and the methods of reproduction to be employed in the publications of the several State agencies and institutions, other than annual or biennial reports.~~

(b) Every publication published at State expense which makes use of the multicolor process is prohibited except:

(1) In cases of scientific illustrations when the illustrations would be unintelligible if published in black and white;

(2) When the publication is a project of the Department of Natural Resources and Community Development, or is a part of the magazine "Wildlife in North Carolina," published under the auspices of the Wildlife Resources

Commission; or

(3) When the express approval of the Department of Administration is obtained.

§ 143-169.1. State agency public document mailing lists to be updated.

(a) On or before July 1 of each year, beginning with July 1, 1976, the head of every agency of this State shall certify to the Director of the Budget that the mailing lists for each public document issued by his agency have been carefully reviewed, updated and corrected within the previous 12 months. The above date may be extended by the Director of the Budget for 90 days for good cause shown. The reviewed, updated and corrected mailing lists shall be comprised only of those persons and organizations who, within the previous 12 months, have either requested that they be included in such a mailing list or have renewed a request that they be so included, or are recipients contemplated for receipt of the pertinent public document by express provision of statute or judicial order.

(b) For the purposes of this ~~section~~ Article, the term "public document" shall mean any annual, biennial, regular or special report or publication of which at least ~~500~~ 200 copies are printed ~~for distribution by mail to the general public.~~ , but shall not include intra-agency communications nor agency correspondence.

(c) For the purposes of this ~~section~~ Article, the term "agency" shall mean and include, as the context may require, State department, institution, commission, committee, board, division, bureau, officer or official; provided, however, the provisions of this section shall not apply to the General Assembly of North Carolina, the Department of Revenue, the Department of Commerce or to the Administrative Office of the Courts and the court system.

§ 143-170: Repealed by Session Laws 1955, c. 986.

§ 143-170.1. Statement of cost of public documents.--Every agency of this State publishing a public document, other than one published for the principal purpose of sale to the public, shall cause the following statement to be printed adjacent to the identification of the agency responsible for the publication: "(number of copies) copies of this public document were printed at a cost of \$ _____ , or \$ _____ per copy." For the purposes of this Article the term "cost" shall include only direct reproduction costs in the form of labor and materials.

[Note. Chapter 866, Session Laws of 1983, provides that the foregoing statutory amendments "shall become effective October 1, 1983, and shall apply to publications printed after the effective date." The session law further provides that, "The chief administrator of the agency authorizing the printing is charged with agency compliance with the provisions of this Article."]