

# **Bond Case Briefs**

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## **POLITICAL SUBDIVISIONS - SOUTH CAROLINA**

### **Davis v. South Carolina Educational Credit for Exceptional Needs Children Fund**

**Court of Appeals of South Carolina - August 9, 2023 - S.E.2d - 2023 WL 5062401**

Records requester brought Freedom of Information Act (FOIA) action against nonprofit organization that provided funding for “exceptional needs children” to attend private schools, seeking to obtain certain records from organization.

The Circuit Court granted summary judgment for organization. Requester appealed.

The Court of Appeals held that organization was not “public body” subject to FOIA.

Nonprofit organization that provided funding for “exceptional needs children” to attend private schools was not “public body” subject to Freedom of Information Act (FOIA), although organization’s major purpose was deciding who received scholarships indirectly supported by state and organization appeared to be acting as proxy for state; support that organization received in form of likely fleeting assistance from state officials and use of state fundraising platform was de minimis, rather than diversion of block of public funds en masse or management of expenditure of public funds, legislation that created organization included reporting and accountability mechanism, and organization was technically independent of state.

Records requester abandoned argument that circuit court erred in using later legislation to interpret General Assembly’s original intent in budget proviso that created nonprofit organization providing funding for “exceptional needs children” to attend private schools, for purposes of requester’s appeal from circuit court’s grant of summary judgment for organization in requester’s Freedom of Information Act (FOIA) action seeking to obtain certain records from organization, where requester cited no legal authority for such argument.