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STATE RECORDS COMMISSION—ORIGINAL OF A DOCUMENT—149.31 TO 149.39 R. C.—COPIES ARE *NOT* “RECORDS” UNDER THAT SECTION—STATUTORY LIMITATIONS ON DISPOSITION (149.31 TO 149.34 R. C.) NOT APPLICABLE.

SYLLABUS:

Under the terms of Section 149.31 Revised Code, when a department, officer, board, commission, or agency of the state continues to hold the original of a document, the copies thereof are not “records” as that term is defined in that section, and the statutory limitations on the disposition of records contained in Sections 149.33 and 149.34, Revised Code, are not applicable to the disposition of such copies.

Columbus, Ohio, January 14, 1957

Mr. Walter Brahm, Chairman, State Records Commission
1113 State Office Building, Columbus 15, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“This is a request for an opinion regarding the authority of the State Records Commission to authorize the destruction of carbon copies of material which is less than six years old.

“Under authority granted in Sec. 149.33 Revised Code of Ohio, the State Records Commission may authorize the destruction or other disposition of records that are six or more years old. Likewise under Sec. 149.37 immediate disposition of any record which has been photographically reproduced, regardless of the age of the record, is permitted.

“Some applications coming before the Commission request permission for the destruction of *carbon* copies of department records, the original of which the department still holds.

“Must the carbon copies be six or more years old before the State Record Commission can authorize their destruction?”

Section 149.31, Revised Code, reads:

“As used in sections 149.31 to 149.39, inclusive, of the Revised Code, “records” means originals or copies of written or printed books, documents, correspondence, papers, maps, drawings, charts, indexes, plans, memorandums, sound recordings, and motion picture or other photographic records, which records are the property or in the custody of any department, officer, board, commission, or agency of the state.”

As you have undoubtedly observed the term “records” as defined in this section includes both originals and copies of various written documents. This does not mean that every copy of a document—and, as you know, innumerable copies are made of some documents—is a “record.” The inclusion of copies in the terms of this section was obviously intended to cover such cases as that of ordinary correspondence where the original of a document is sent out of a state office and a copy is retained. In such a case the retained copy is the “record.” In the situation outlined in your request the department retains the original, and therefore the carbon copies are not “records” and may be disposed of as the department wishes.

Accordingly, it is my opinion, and you are advised, that, under the terms of Section 149.31 Revised Code, when a department, officer, board, commission, or agency of the state continues to hold the original of a document, the copies thereof are not “records” as that term is defined in that section, and the statutory limitations on the disposition of records contained in Sections 149.33 and 149.34 Revised Code, are not applicable to the disposition of such copies.

Respectfully,

C. WILLIAM O'NEILL

Attorney General