

1976 S.C. Op. Atty. Gen. 111 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4292, 1976 WL 22912

Office of the Attorney General

State of South Carolina

Opinion No. 4292

March 11, 1976

**\*1** (1) The Greenville County Commission for Technical Education cannot designate the company from which an employee is to purchase an annuity contract.

(2) The Greenville County Commission for Technical Education can prohibit all salesmen from going on to the campus of Greenville TEC during regular working hours.

TO: Personnel Director

State Board for Technical and Comprehensive Education

**QUESTIONS PRESENTED:**

(1) Does Greenville TEC have the authority to limit the number of companies with which the institution may enter into agreement whereby employees may purchase tax sheltered annuities?

(2) Does Greenville TEC have the authority to prohibit salesmen and solicitors from doing business on campus during regular business hours?

**AUTHORITIES CITED:**

Code of Laws of South Carolina, 1962, Sections 16–551, 21–230, 21–2852 and 61–608;

1967 Op. Atty. Gen., 166;

78 C. J. S., Schools & School Districts, Section 119.

**DISCUSSION (1):**

Section 61–608 of the South Carolina Code of Laws provides:

‘The School District of Greenville County, Greenville County Commission for Technical Education and the governing bodies of all special purpose districts may enter into agreements to pay, at the request of its employees, a part of the income of such employees, not to exceed the exclusion allowance provided in [Section 403\(b\)\(2\) of the Internal Revenue Code](#) of the United States for the purchase of annuity contracts from insurers licensed to do business in South Carolina.’

In a previous opinion this office took the position that in school districts which had adopted a tax sheltered annuity plan, employees had a right to purchase an annuity contract from any company which they desired, as long as said company was licensed to do business in the state. 1967 Op. Atty. Gen., 166. This opinion has been reaffirmed a number of times in letters from this office.

The previously cited opinion of this office concerned the interpretation of § 21–230 of the South Carolina Code of Laws. Although § 61–608 of the Code, concerning the authority of the Greenville, County Commission for Technical Education to operate an annuity deduction plan, differs slightly from the wording of § 21–230, this difference does not seem to be of any significance. There is no difference between the meaning of the term ‘may enter,’ as used in § 61–608, and the term ‘authorized to enter’ used in § 21–230. The same principle would be applicable in each of the above instances:

The powers and authority of the boards and officers of school districts and other local school organizations are ordinarily purely statutory and are limited to those powers expressly conferred by statute or necessarily implied from those so conferred or from duties imposed by statute. 78 C. J. S., Schools & School Districts, § 119.

It appears that the only powers granted by the above mentioned statutes concerning annuity contracts is the power to pay a portion of the employees income, at the employee's request, to an insurance company from which the employee has purchased an annuity contract. Therefore, the Greenville County Commission for Technical Education is without the authority to designate insurance companies with which employees must deal in order to be able to take advantage of the paycheck deductions authorized by § 61–608 of the Code.

DISCUSSION (2): § 16–551 of the South Carolina Code of Laws provides:

**\*2** It shall be unlawful:

(1) For any person willfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon:

or

(2) For any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge.

Pursuant to the provisions of this statute, insurance salesmen could be prevented from soliciting business in TEC Centers.

The powers of the Greenville County Commission for Technical Education includes the power to adopt reasonable rules and regulations for the operation of its facilities. § 21–2852 of South Carolina Code. The statute contains a general grant of authority to supervise and direct the activities of the college. It would appear that this authority would of necessity include regulation of the terms under which persons other than students and employees may come onto the school premises. It must be borne in mind that the exclusion of salesmen must be based upon a supportable reason and made applicable to all salesmen generally.

**CONCLUSION:**

Employees of the Greenville County Commission for Technical Education may purchase tax sheltered annuity plans from any insurer licensed to do business in South Carolina.

Greenville TEC may prohibit salesmen and solicitors from doing business on school property.

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