

1973 S.C. Op. Atty. Gen. 221 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3572, 1973 WL 21029

Office of the Attorney General

State of South Carolina

Opinion No. 3572

July 16, 1973

**\*1 1. The Educational Television Commission, as an integral part of the public schools' instructional system, is entitled to allocations of State funds derived from the taxes levied under authority of Section 65–1401, Section 65–1255 and Section 65–775.1 of the Code of Laws of South Carolina.**

**2. The State Board for Technical and Comprehensive Education cannot receive allocations from funds received by the State pursuant to authority of Section 65–775.1 as funds gathered thereunder have been earmarked for public school use.**

Senator

Florence, Marion, Horry and Williamsburg Counties

Attorney General McLeod has referred to me your request for an opinion as to whether expenditures for the Educational Television Commission and the State Board for Technical and Comprehensive Education are within the statutory uses set forth in Section 65–1401, Section 65–1255, and Section 65–775.1 of the Code of Laws of South Carolina. As stated in your letter, these sections provide for the levying of certain taxes and further provide for the use of these funds for ‘public schools,’ ‘public school use,’ or ‘elementary and secondary public education.’

This office has defined the term ‘public school’ as:

‘a school which is open and public to all and which the State undertakes through various boards and officers to direct, manage and control.’ 1959–60 Ops. Atty. Gen. 354 (Op. #690)

The term ‘public school’ as used in statutes is generally limited to primary or secondary schools unless there is a clear indication that the intent of the legislature is otherwise. See 68 Am. Jur. ‘Schools’ § 1. Post secondary technical and professional schools would not be embraced by this term in the absence of definitive statutory authority. Further, funds earmarked by statute for public schools may not be appropriate for post secondary institutions, even though they are State supported. Rather, post secondary institutions must draw their support from sources other than funds derived from taxes levied for support of the public schools. 68 Am. Jur. 2d ‘Schools’ § 95. Taxes or revenue raised for the general support and maintenance of public schools may be used for any general school purposes which are necessary for the proper and efficient functioning of the school. 79 C. J. S. ‘Schools and School Districts’ § 412.

Section 21–60 of the Code of Laws of South Carolina created the Educational Television Commission. Your attention is called to § 21–60.3 that provides in part:

‘The Commission shall make a complete study of the use of educational television and its adaptation for instructional purposes in all of the public schools of the State.’

Section 21–704.11 created the State Board for Technical and Comprehensive Education. Your attention is called to § 21–704.12 that provides in part:

‘The Board shall have within its jurisdiction, in accordance with the provisions of this article, all two-year, State supported, part secondary institutions and their programs that are presently operated and created in the future.’

\*2 Based upon the foregoing, it is the opinion of this office that the Educational Television Commission, as an integral part of the public schools' instructional system, is entitled to allocations of State funds derived from the taxes levied under authority of Section 65–1401, Section 65–1255, and Section 65–775.1 of the Code of Laws of South Carolina. The State Board for Technical and Comprehensive Education, however, being neither embraced by the term 'public schools' nor bearing a direct relation thereto, cannot receive allocations from funds received by the State pursuant to authority of Section 65–1401, 65–1255, and Section 65–775.1 as funds gathered thereunder have been earmarked for public school use.

Hardwick Stuart, Jr.  
Assistant Attorney General

1973 S.C. Op. Atty. Gen. 221 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3572, 1973 WL 21029

---

End of Document

© 2020 Thomson Reuters. No claim to original U.S. Government Works.