



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

February 8, 2005

Chief Frank J. Zebedis
Winthrop University Police
2 Crawford Building
Rock Hill, South Carolina 29733

Dear Chief Zebedis:

In a letter to this office you questioned the practice of the Winthrop University Police Department of issuing moving traffic citations to Winthrop students and personnel utilizing their own tickets and setting bonds and fines for a violation. You indicated that Winthrop University officers issue such tickets for moving and parking violations that occur on Winthrop property. The tickets issued are not uniform traffic tickets and are not submitted to municipal or county courts. The tickets also carry no license or insurance points. You also indicated that there is in place an appeals board at the University which meets twice a month to hear appeals of all Winthrop issued tickets. You also indicated that you are not referring to violations for which a custodial arrest is typically made. You indicated that Winthrop officers are Class 1 State Constables and have the authority to issue uniform traffic tickets which are then turned over to the Rock Hill Municipal Court. The uniform traffic tickets are typically issued by these officers to individuals not associated with Winthrop who are violating traffic regulations.

In considering your question, several State statutory provisions are relevant. Pursuant to S.C. Code Ann. §§ 59-116-10 et seq. (2004), the colleges and universities of this State are authorized to establish campus safety departments and appoint and employ campus police officers. As set forth by Section 59-116-20, these officers are commissioned as constables and have jurisdiction that is typically limited to the campus grounds and streets and roads that run through and are contiguous to the campus. Pursuant to Section 59-116-30,

(A) Campus police officers are peace officers. While in the performance of the duties of their employment, they have all the powers of municipal and county police officers to make arrests for both felonies and misdemeanors and

possess all of the common law and statutory powers, privileges, and immunities of police officers. Campus police officers shall:

(1) preserve the peace, maintain order, and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions and protect all persons and property located there from injury, harm, and damage;

(2) enforce and assist the officials of their respective institutions in the enforcement of the laws of the State and county and municipal ordinances, and the lawful regulations of the institution, and assist and cooperate with other law enforcement agencies and officers. Campus police officers shall exercise powers granted in this chapter only upon the real property owned by their respective institutions as defined in item (1) of Section 59-116-10. (emphasis added).

Pursuant to S.C. Code Ann. § 59-101-335 (2004)

The governing boards of all state-supported colleges, universities, and technical schools shall be authorized to establish penalties and bonds for traffic and parking violations occurring on property which is owned, leased, supervised, or otherwise controlled by the institution. A schedule of penalties and bonds for such offenses shall be available for inspection during normal business hours at the institution at a location designated by the board.

S.C. Code Ann. §§ 56-21-10 et seq. (1991) provide for the regulation of traffic at State institutions which would include State colleges and universities. Section 56-21-10 states that:

The governing boards of all State institutions which provide for the operation and parking of vehicles upon the grounds, streets, drives and alleys or any other institutional property under its control are hereby authorized to employ security personnel and to promulgate such traffic regulations as may be deemed necessary. Such regulations may include the following:

- (1) Fixing the rate of speed;
- (2) Assigning parking spaces and designating parking areas and assessing charges therefor;

- (3) Prohibiting parking in certain areas;
- (4) Removing vehicles parked in violation of regulations at the expense of the violator;
- (5) Instituting a system of registration for vehicle identification;
- (6) Issuing parking and traffic tickets. (emphasis added).

Section 56-21-20 states:

It shall be unlawful for any person to park a vehicle upon any property under the control of a State institution except in the manner designated by such institution.¹

As to Winthrop University itself, S.C. Code Ann. § 59-125-80 (2004) is applicable to the questions you raised. Such provision states:

The board of trustees may, from time to time, make, constitute and establish such bylaws, rules and orders, not inconsistent with the laws of the land, as to it shall seem necessary and convenient for the better regulation, government, well ordering and directing of itself as well as for the college and all officers, teachers or other persons by it employed in and about the same and all pupils in the institution. It shall possess all the power necessary for the accomplishment of the trust committed to it, viz.: the establishment, conduct and maintenance of a first-class institution of higher education....

As referenced above, pursuant to Section 59-116-30, campus police officers are authorized to “...enforce and assist the officials of their respective institutions in the enforcement of the laws of the State and county and municipal ordinances, and the lawful regulations of the institution...” Similarly, as noted, pursuant to Section 56-21-10, state institutions, which in my opinion would include colleges, are authorized “to promulgate such traffic regulations as may be deemed necessary.” The regulations may include matters of speeding, parking and the issuance of traffic and parking tickets. The regulatory authority of the Winthrop Board of Trustees is set out by Section 59-125-80.

¹S.C. Code Ann. § 56-21-40 (1991) provides:

All fines and bail forfeitures collected under the provisions of §§ 56-21-10 to 56-21-60 shall be deposited in the general fund of the particular State institution wherein the violation occurred.

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Based upon the above, in my opinion there is statutory authorization for the practice of Winthrop University police issuing traffic citations on their own tickets and setting bonds and fines for traffic and parking violations on the Winthrop campus. I am assuming that there are regulations in place that provide for such practice and establish the bonds and fines for these violations.²

As to any questions concerning the propriety of a dual system, in light of the fact that you indicated that non-Winthrop personnel are issued uniform traffic tickets for similar violations, in Haug v. Franklin, 690 S.W.2d 646 (Tex.Ct.App. 1985), the Texas Court of Appeals was faced with a situation where regulations promulgated by the University of Texas Board of Regents governing parking were challenged. The Court commented that

...the regulations provide for a dual system of enforcement initiated by citations issuable by security personnel holding commissions issued by the University. One such system is enforcement by administrative proceedings in the University and the other is enforcement by judicial proceedings in a municipal or justice court.

690 S.W.2d at 648. Under the regulations, the violator was entitled to "appeal" a citation to a panel composed of individuals which were appointed from the staff, faculty and student body of the University. The court upheld the dual system providing for an administrative enforcement process against a challenge of a violation of constitutional guarantees of procedural due process of law.

Similarly, in my opinion, Winthrop University is authorized to adopt its system of traffic and parking control as set out above whereby traffic tickets, which are not uniform traffic tickets, are issued by Winthrop police officers to Winthrop personnel for parking and traffic violations. Admittedly, according to Section 56-21-50 (1991),

The recorder, judge or the magistrate having jurisdiction within the area where such State institution is situate shall have jurisdiction to hear, try and determine violations of the provisions of §§ 56-21-10 to 56-21-60. The county

²As to the provisions of S.C. Code Ann. § 59-116-100 (2004) which state that "(p)ersons arrested by a campus police officer must be processed in the manner persons arrested are processed by municipal and county law enforcement officers", this office in prior opinions has concluded that the issuance of a traffic citation when unaccompanied by actual restraint or taking into custody at the scene does not constitute an arrest. See: Ops. Atty. Gen. dated July 19, 1996; May 17, 1979; April 29, 1976.

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treasurer who receives fines or bail forfeitures collected by the recorder, judge or magistrate for violations of the provisions of §§ 56-21- 10 to 56-21-60 shall remit such fines or forfeitures to the institutions concerned.

While such provision states that a magistrate has jurisdiction to try violations of Sections 56-21-10 through 56-21-60, in my opinion, such provision does not grant exclusive jurisdiction to a magistrate to hear and determine such cases but only grants these judicial officers the authority to try such cases if such is desired. Instead, in my opinion, a dual system whereby Winthrop University has its own system of handling traffic and parking violations such as that described above may exist also.

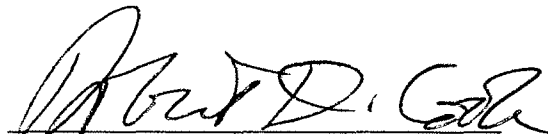
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General