



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

November 12, 1996

The Honorable Robert W. Hayes, Jr.
Senator, District No. 15
Box 904
Rock Hill, South Carolina 29731

Re: Informal Opinion

Dear Senator Hayes:

You have forwarded a letter from Michael Griffin of Winthrop University which contains two questions involving a joint project between the Winthrop Olde English Consortium (WOEC)¹ and South Carolina Educational Television (SCETV). The joint project involves the creation, production, and broadcast of a Spanish program for elementary students in participating member school districts of the WOEC. The agreement between WOEC and SCETV calls for the WOEC to pay for instructional costs and SCETV to pay for program costs associated with the production and marketing of the program.

For the purposes of cost recoupment, the WOEC has discussed the possibility of charging non-member public school districts in South Carolina fee to use the elementary Spanish program. Accordingly, Mr. Griffin has asked the following questions:

1. Can the WOEC, through SCETV, charge an initial user fee for cost recoupment to non-member public school districts in South Carolina who use the elementary Spanish series?

¹ The WOEC is comprised of Winthrop University and several participating school-districts who pay a fee to belong to the WOEC.

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2. Can the WOEC, through SCETV, charge an annual user fee for cost recoupment to non-member public school districts in South Carolina who use the elementary Spanish series?

LAW/ANALYSIS

State agencies are permitted to contract among themselves, provided that the state agencies involved have been granted the power to contract and there otherwise exists no statutory or other prohibition against the specific action contemplated.

In the situation presented by Mr. Griffin, the three entities cited (the WOEC, SCETV, and non-member public school districts located in South Carolina) have all been granted by statute the power to contract and none are statutorily prohibited from entering into the type of agreement outlined by Mr. Griffin. First, the Board of Trustees of Winthrop University is a body corporate. The Board may contract and be contracted with and may own, purchase, sell and convey property, both real, personal and mixed. S.C. Code Ann. § 59-125-70 (1990). Second, SCETV is permitted to lease or sell the use of its facilities, equipment, programs, publications and other program related materials on such terms as SCETV deems advantageous, and funds received therefrom shall be used for SCETV purposes. S.C. Code Ann. § 59-7-50 (1990). Finally, every school district is a body politic and corporate. In its corporate name, a school district may sue and be sued and is capable of contracting and being contracted with to the extent of its school fund. S.C. Code Ann. § 59-17-10 (1990).

Since each of the entities cited in Mr. Griffin's questions have the power to enter into contractual agreements and none are statutorily prohibited from entering into the type of agreement proposed by Mr. Griffin, it does not appear that the WOEC would be precluded from entering into a contractual agreement with SCETV. Further, it does not appear that the WOEC would be precluded from entering into a contractual agreement with the non-member public school districts to receive both an initial users fee and an annual users fee from the non-member public school districts. Finally, it does not appear that SCETV would be barred from entering into a contractual agreement with the non-member public school districts. Therefore, in my opinion, the WOEC, through SCETV, is permitted to charge the non-member public school districts both an initial users fee and an annual users fee for use of the elementary Spanish program.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

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With kindest regards, I remain

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul M. Koch".

Paul M. Koch
Assistant Attorney General