

1980 WL 121070 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 26, 1980

*1 Edgar A. Vaughn, Jr., CPA
State Auditor
Office of the State Auditor
Post Office Box 11333
Columbia, South Carolina 29211

Dear Mr. Vaughn:

Your letter to Attorney General McLeod, dated January 30, 1980, which raises several questions pertaining to the interpretation of the Appropriations Act has been forwarded to me for reply. Your first question concerns § 125 of the 1979-1980 Appropriations Act (identical to § 122 of the 1977-78 Appropriations Act) which provides in part:

. . . Fees applicable to dormitory rental, dining halls, laundry, infirmary and all other personal subsistence expenses shall be sufficient to fully cover the cost of providing such facilities and services . . .

Your questions concerning this provision are as follows:

1. Does the above section mean that such auxiliary enterprises or activities as a whole should be self-supporting in total?

or

2. Does it mean that each activity such as dormitory rental, dining halls, bookstores, etc., should be self-supporting independently of the other activities?

It is the opinion of this Office that the General Assembly could not have intended that students who pay for one service should have to compensate for the financial debits of another. This would result in a method of financing university student services which would be plainly inequitable.

Your second question concerns § 132 of the 1979-1980 Appropriations Act (identical to § 129 of the 1977-78 Appropriations Act) which provides in part as follows:

. . . salaries paid to officers and employees of the State, including its several boards, commissions, and institutions shall be in full for all services rendered, and no perquisites of office or of employment shall be allowed in addition thereto, but such perquisites, commodities, services or other benefits shall be charged for at the prevailing local value and without the purpose or effect of increasing the compensation of said officer or employee. . . .

You have asked the following questions:

1. Are college and university faculty members living in campus housing at rates below fair market value in violation of Section 129 of the 1977-78 Appropriation Act?

2. Since charging faculty members the fair market value may create a profit, does this contradict Section 122 of the 1977-78 Appropriation Act?

There is no question that if a faculty member lives in campus housing the rates below fair market value, the section quoted immediately above is contravened. The second question, however, would not arise under the first quoted provision above (§ 125 of the 1979-80 Act, § 122 of the 1977-78 Act) because it is clear that that provision pertains only to student fees at State institutions; dormitory rental, dining halls, laundry, and infirmary services are the sort of personal subsistence expenses referred to in that section and such services are provided primarily for the benefit of students. Moreover, the first sentence of the section states that the section is to determine the amount of student fees.

*2 Please let me know if I can be of further assistance.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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