

1977 WL 37049 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1977

*1 Upon the approval of the appropriate authorities of Clemson University and compliance with any applicable internal regulations of the school, the Student Government Association of Clemson could employ an attorney for the students whose services are limited to advice and counsel. No opinion is expressed herein concerning the ethics of such a plan.

Joseph B. McDevitt
University Counsel
Clemson University

QUESTION PRESENTED:

Whether the Student Government Association of Clemson University may employ an attorney for the students whose services are limited to advice and counsel?

STATUTES, CASES CITED:

1962 South Carolina Code, § 22–204.

[State v. Igoe, 107 S.W.2d 929, 340 Mo. 1166 \(1937\).](#)

DISCUSSION:

Although no opinion is expressed herein on the ethics of such a plan, the hiring of an attorney by the Student Government Association of Clemson University should be legally permissible. The funds used to finance the project do not appear to be 'public funds' and thus should not be subject to any restrictions such money might have on its use. [State v. Igoe, 107 S.W.2d 929, 340 Mo. 1166 \(1937\)](#), cites the following definition of 'public funds':

'The term 'public funds' means funds belonging to the State or any county or political subdivision of the State; more especially taxes, customs, moneys, etc., raised by operation of some general law and appropriated by the government to the discharge of its obligations or for some public or governmental purpose.'

In the proposed plan at Clemson, the funds will be raised and administered by a division of the Student Government Association which, although under the authority of the University, does not appear to be a subdivision of the school and, consequently, of the State. The funds thus are not held or owned by the State. In addition, the money is not raised by any means analogous to taxation which might characterize it as public since it is raised through various service projects, such as refrigerator rentals.

Even if the funds in this case should be deemed public in nature, and thus be subject to a restriction that they be used for a public purpose, the proposed services to be provided by the attorney in this case are sufficiently limited so that they are related to the purposes of the University. Under § 22–204 of the 1962 South Carolina Code, the Board of Trustees of Clemson University is given the power to make all rules and regulations for the government of the College. Such powers should extend to providing for the welfare of the students. A program of legal assistance would be of help to students who do not otherwise have the funds for a ready access to an attorney, and is in keeping with the assistance provided for them by medical and counseling services of

the various colleges in the State. Moreover, when the legal services are limited to advice and counsel, no problem arises from the possibility of public funds being used to finance litigation against the University or against private citizens. Thus, if the funds are public, they would not be used for the benefit of one citizen against another citizen or a State institution.

CONCLUSION:

*2 Adoption of the proposed legal services program does not appear to be outside the powers of the Board of Trustees of Clemson University under Section 22–204, or in conflict with the laws and policies of this State. Of course, the program would have to be approved by the appropriate authorities of Clemson University and comply with any internal regulations of that school.

As noted earlier, no opinion is expressed herein on the ethics of the proposed plan. In addition, while no opinion is expressed herein as to whether the program should be approved by the Commission on Higher Education under § 22–15.9 of the South Carolina Code, as amended, such action may be advisable.

A. Camden Lewis
Assistant Attorney General

1977 WL 37049 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.