

1979 S.C. Op. Att'y Gen. 158 (S.C.A.G.), 1979 S.C. Op. Att'y Gen. No. 79-111, 1979 WL 29115

Office of the Attorney General

State of South Carolina

Opinion No. 79-111

September 17, 1979

***1 Subject: Education, General**

Radio broadcasting rights at high school interscholastic athletic activities are subject to the Rules and Regulations of the South Carolina High School League, a voluntary organization with the official recognition and sanction of the South Carolina State Board of Education.

To: Member

House of Representatives

Question: What governing body controls the radio broadcasting rights at interscholastic activities?

Statutes and Cases:

[§ 59-5-60 of the Code of Laws of South Carolina](#), 1976; R43-245 of the Rules and Regulations of the State Board of Education, Vol. 24 of the Code of Laws of South Carolina, 1976; [Bruce v. S. C. High School League](#), 258 S.C. 546, 189 SE 2d 817, 819 (1972); [Southwestern Broadcasting Co. v. Oil Center Broadcasting Co.](#), 210 S.W. 2d 230 (1947); South Carolina High School League Handbook 1979-1980, Radio Broadcasting Policy p. A-28, 78 C. J. S. [Schools and School Districts](#) § 251.

Discussion:

The specific question addressed here concerns the authority of a District Board of School Trustees to restrict live radio broadcasts of high school interscholastic football games. A review of the South Carolina Code of Laws reveals no statute which is directly dispositive on the question presented; however, reference to state statutes and a regulation of the State Board of Education is helpful. [Section 59-5-60, Code of Laws of South Carolina](#), 1976, enumerates the powers of the State Board of Education. Subparagraph 1 of [§ 59-5-60](#) provides as follows, 'Adopt policies, rules and regulations not inconsistent with the laws of the State for its own government and for the government of the free public schools.' Pursuant to the aforementioned statutory authority, the State Board has promulgated R43-245, Code of Laws of South Carolina, 1976, in which the State Board declares its official recognition and sanction to the South Carolina High School League in regard to interscholastic activities.

The South Carolina High School League is a voluntary organization, composed of various public and private schools throughout the State. In 1972 the South Carolina Supreme Court observed in [Bruce v. South Carolina High School League](#), 258 S.C. 546, 189 SE 2d 817, 819 (1972), that the Court should not interfere with such an association's internal affairs unless there was some form of mistake, fraud, illegality, collusion, or arbitrariness involved. Therefore, the Rules and Regulations published in the current handbook of the South Carolina High School League govern the activities of the member schools. See also 1976-77, Op. Att'y Gen., Op. No. 77-245, August 8, 1977, p. 182.

The South Carolina High School League has adopted regulations concerning radio broadcasts of high school athletic events. The regulations are found at p. A-28 of the South Carolina High School League Handbook, 1979-1980, which state in pertinent part:

***2 1. WRITTEN POLICY**—This committee is of the opinion that each school (or school district) should have a written policy stating their views and desires concerning radio broadcasting. This does not necessarily mean that restrictions are needed. Radio stations need to know this policy if they are to serve the public.

2. REGULAR SEASONS GAMES—The radio rights are the exclusive property of the home school. Applications to broadcast regular season games must be directed to the principal of the host school. (See Item 8 below)

8. APPLICATIONS FOR BROADCASTING RIGHTS—The forms to be used by radio stations in making application to broadcast high school athletic contests should be made out in triplicate. After signing the application, the host school will keep one of the carbon copies. The original and the other carbon copy will be returned to the radio station. The radio station will keep the original and will send the carbon copy to the visiting team.

A radio station will not go to an athletic contest for the purpose of broadcasting the contest without first receiving written permission from the host school, tournament director or Executive Secretary. A radio station will limit its working personnel to three persons and will accept facilities available.

SUMMARY—It is hoped by this committee that these regulations will aid school personnel and radio station management in their contractual relationships. The members of this committee agree that radio broadcasts are in many respects a public service. However, this fact does not give the radio station the privilege of demanding unlimited broadcasting privileges. It is hoped that both groups will work together so that the public support of athletic endeavors is strengthened and that all phases of school endeavors will be improved.

All schools within a given school district are under the management and control of a Board of Trustees. § 59-19-10. Further, § 59-19-90(5) specifically gives a District Board of Trustees both the power and duty to care for, manage and control the school property of the district. Therefore, if membership of individual schools in the South Carolina High School League is within the policy of a school district, then the Rules and Regulations of the high school league are binding upon the members thereof, unless such regulations are the result of a mistake, fraud, illegality, collusion, or arbitrariness.

In the event that a school is not a member of the South Carolina High School League, the opinion of the civil appeals court of Texas in [Southwestern Broadcasting Co. v. Oil Center Broadcasting Co.](#), 210 S.W. 2d 230 (1947), appears to be the best authority on the subject of this Opinion. In that case, the court held that where an athletic field is located on property owned by a school district, the management and control of such field was vested in the officers of the school board, and the school district has a right to make profits out of games played on the premises. Such profits are to go for the benefit of the district, and the school district generally has the same freedom of action as a private person or corporation in sponsoring such games and in preventing the field side broadcast thereof. See also 78 C.J.S. Schools and School Districts, § 251.

Conclusion:

***3** The Opinion of this Office is that a public high school or school district, whether a member of the South Carolina High School League or not, have authority to either allow or prohibit in their discretion live radio broadcasts of high school interscholastic football games.

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