

1973 WL 26780 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 18, 1973

\*1 Mr. J. Ray Mixon  
Greenville Technical Education Center  
Post Office Box 5616—Station B  
Greenville, South Carolina 29605

Dear Mr. Mixon:

Pursuant to your request for assistance in determining the legality of your proposed foundation, we have found the following information.

By statute, the Greenville County Commission for Technical Education has been expressly granted the power to accept donations and to expend such funds for the operation, maintenance and improvement of the facilities of the Greenville Technical Education Center, South Carolina Code Annotated § 21-851, see 1962 Act No. 743 [1962 (52) 1734], § 3.

As a general rule of construction, ‘when the terms of a statute are clear and unambiguous, there is no room for construction; and the statute’s terms are to be applied according to their literal meaning.’ Home Building and Loan Association v. City of Spartanburg, et al., 105 S.C. 312, 194 S.E. 139.

‘There is no safer nor better rule of interpretation than that when language is clear and unambiguous, it must be held to mean what it plainly says. Jones v. SCSHD, 247 S.C. 132, 136, 157 S.E.2d 166.’ Opinion No. 2583, 1968 Ops. Atty. Gen. at 288.

Looking to the language of the statute creating the Commission, it is clear that it has been given the authority to accept donations and to expend funds. Since the statute gives to the Commission such authority, it is unnecessary to form a foundation whose sole purpose will be to accomplish what the Commission is already empowered to do itself.

Justification for such a foundation cannot be based upon the Commission’s authority to use any reasonably necessary implied power(s), for this principle is only applicable where the end is required but no appropriate means are specified. 1 AM.JUR.2d, Administrative Law, Section 44, page 846. Here, both the ends and the means by which they are to be accomplished have been provided by the express language of the statute creating the Commission.

The Supreme Court of South Carolina said in Piedmont & Northern Ry. Co. v. Scott, 202 S.C. 207, 24 S.E.2d 353, 360:  
... [state] bodies, being unknown to the common law, and deriving their authority wholly from constitutional and statutory provisions, will be held to possess only such powers as are conferred, expressly or by reasonably necessary implication. ...

Therefore, it is the opinion of this office that the Greenville County Commission for Technical Education does not possess the authority to establish a foundation.

Sincerely,

C. Tolbert Goolsby, Jr.  
Deputy Attorney General

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