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The State of South Carolina



Office of the Attorney General

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December 9, 1993

The Honorable Donald Gist
Commissioner, South Carolina
Commission for the Blind
1430 Confederate Avenue
Columbia, South Carolina 29201

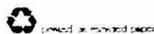
Dear Commissioner Gist:

By your letter of December 7, 1993, with enclosures, you have advised that the South Carolina Commission for the Blind is planning to open a vending facility which will consist of vending machines on sites at the South Carolina Fire Academy, to be operated by a blind person under the Business Enterprise Program. You have asked whether the Fire Academy would be considered a state technical education institution in light of the various statutes respecting the Fire Academy and the Business Enterprise Program of the Commission for the Blind.

The Commission for the Blind is authorized by statute to license and establish blind persons as operators of vending facilities in or on public and other property. S.C. Code Ann. § 43-26-20. Section 43-26-50 lists options and procedures relative to the establishment of vending facilities by blind persons on public property. Certain buildings are exempted from application of these statutes, however, by § 43-26-90, including technical education institutions.

Until 1986, the Fire Academy fell under the Midlands Technical Education College system. By Act No. 347 of 1986, the General Assembly removed the Fire Academy from the responsibilities of the State Board for Technical and Comprehensive Education and placed the Fire Academy under the Division of the State Fire Marshal of the Budget and Control Board. The Fire Academy is funded in § 70A of Act No. 164 of 1993 (the 1993-94 appropriations act), which section contains the appropriations for the Division of the State Fire Marshal. Section 23-10-10, as most recently amended by the governmental restructuring act, now provides in part:

The State Fire Marshal shall have sole responsibility for the operation of the South Carolina Fire Academy (Academy).



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The Academy is operated for the express purpose of upgrading the state's fire service personnel -- paid, volunteer, and industrial. All buildings, facilities, equipment, property, and instructional materials ... shall remain assigned to the Academy and may not be integrated with any ... technical education center, without the consent of the Director of the Department of Licensing, or his designee.

(Prior to restructuring, the consent would have been obtained from the State Fire Marshal.)

A review of Chapter 53 of Title 59, S.C. Code of Laws, pertaining to technical and vocational education and training, does not reveal any statute which would suggest that the Fire Academy be considered a part of the State's technical and comprehensive educational system. Appropriations to the Technical and Comprehensive Education Board are detailed in § 19N of Act No. 164 of 1993; there is no provision therein for the Fire Academy.

Based on the foregoing it is our opinion that the South Carolina Fire Academy is not a technical education institution for purposes of establishing vending facilities under the Business Enterprise Program of the South Carolina Commission for the Blind.¹

With kindest regards, I am

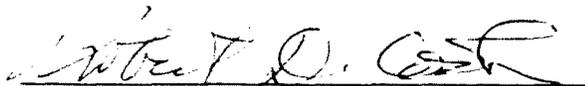
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions

¹ By an opinion dated April 5, 1983, the history of vending facilities on at least one technical education institution campus is briefly stated. I enclose a copy of that opinion in the event that it may contain beneficial information.