

1976 S.C. Op. Atty. Gen. 269 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4416, 1976 WL 23033

Office of the Attorney General

State of South Carolina

Opinion No. 4416

August 3, 1976

***1 Attention: B. A. Daetwyler, Vice President for Finance**

The University of South Carolina may not, in accordance with the opinion rendered by this Office on August 10, 1973, reinvest the funds currently placed in the Loomis-Sayles Capital Investment Fund. The money should be handled in accordance with the aforementioned opinion of August 10, 1973.

TO: Division of Finance
University of South Carolina

QUESTION PRESENTED:

Whether the investment of money contained in the University of South Carolina 'Athletic Endowment Fund' falls within the proscription of the opinion issued by this Office on August 10, 1973, concerning the loaning of money held by the University which cannot be properly classified as State money.

STATUTES, CASES, AND OTHER AUTHORITIES:

Opinion of the Attorney General, August 10, 1973;

[State ex rel. Board of Governors of West Virginia University v. Sims, Auditor, 59 S.E.2d 705;](#)

63 Am. Jur. 2d Public Funds, § 2;

[Hunt v. McNair, 255 S.C. 71, S.E.2d 362;](#)

§ 22-105(11), Code of Laws of South Carolina;

§ 1-742.1, Code of Laws of South Carolina.

DISCUSSION OF THE ISSUE:

Essentially the same problem was presented to this Office in 1973. In that instance, the propriety of the University lending funds in its possession which were not properly State funds but which were public funds was addressed. It was and is the opinion of this Office that lending these funds without specific statutory authority would be improper.

The investment of such funds falls within the same proscription. Investment, as it is used here, does not preclude the placing of these funds in a savings account or like account with a bank or savings and loan institution. Such action would be within the authority of the University to hold funds. It does, however, preclude the current employment of the 'Athletic Endowment Fund' in a capital investment fund.

CONCLUSION:

Accordingly, the conclusion is that the University should, at the earliest practical time, and in a manner which would not endanger the capital within the fund, remove the Athletic Endowment Fund from its present investment. If the University desires to place the funds in an investment other than a savings account or like account with a bank or savings and loan institution, it should follow the procedure outlined in Code Section 1-742.1.

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