

1975 S.C. Op. Atty. Gen. 240 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4186, 1975 WL 22481

Office of the Attorney General

State of South Carolina

Opinion No. 4186

November 19, 1975

\*1 Fees received by Technical Education Centers are, with certain specific statutory exceptions, State Monies and are required to be deposited with the State Treasurer.

TO: The Honorable Grady L. Patterson, Jr.  
State Treasurer

QUESTION PRESENTED:

You have requested an opinion as to whether fees and other monies received by Technical Education Centers are State monies, and if so, what disposition is to be made therewith. The monies in question include tuition and other such sources of income, and monies received from auxiliary services such as book stores and canteens, etc.

DISCUSSION:

It is clear that an agency of the State government, such as the Centers in question, have only those powers as are granted them by the Legislature. [Hodge vs. Pollack, 223 SC 342, 75 SE2nd 752](#); [Heywood vs. South Carolina Tax Commission, 240 SC 347, 126 SE2nd 15](#). Thus absent a specific legislative declaration as to the disposition of revenue received by the Technical Education Centers these revenues are to be handled and disposed of in accordance with the general law.

The general law, as found in Section 1-742.1, Code of Laws of South Carolina, 1962, as amended, states:  
To facilitate the management, investment, and disbursement of public funds, no board, commission, agency or officer within the State government, except the State Treasurer shall be authorized to invest and deposit funds from any source, including, but not limited to, funds for which he is custodian, such funds to draw the best rate of interest obtainable.

This clearly states that those funds in question are required to be deposited with the State Treasurer. This position is similar to that held in the majority of the jurisdictions, for as stated in 81 CJS Section 154 at 1189:  
State funds are to be collected and held by such officers and in such manner as may be provided by law, and unless otherwise provided should be paid into the State Treasury where they are in the custody and under the control of the State Treasurer.

It is therefore clear that the law considers monies collected by agencies such as the TEC Centers, to be State monies to be deposited with the State Treasurer, and the agencies to be the conduits whereby these monies are collected and forwarded to the Treasurer.

There is no distinction in the law between State monies, and public monies, 63 Am.Jur. 2nd [Public Funds](#), Section 1, et. seq.; 35 Words and Phrases, [Public Funds](#), page 172; [Public Funds, 104 ALR 1372](#); accordingly the terms are interchangeable and are used in that manner throughout our Code.

A similar situation to that posed was found in the case of [State vs. Sims](#), 134 WVa 428, 59 SE2nd 705, wherein the Court stated:

Monies derived from State educational institutions from admission fees to athletic contests and from contracts with other athletic teams inside and outside the State, are within Statutes providing for disposition of public moneys.

\*2 An even more specific instance was found in the case of [City of Morgantown vs. Ducher](#), 153 WVa 121, 168 SE2nd 298, at 301, when the Court stated:

Moneys received and administered by the Board of Governors are public moneys and such moneys whether derived from admission fees to athletic contests, from tuition fees, from medical and hospital services, and from appropriations by the Legislature, are public moneys . . . and when accepted, received or collected by the board must be paid into the State Treasury and credited to the proper fund as provided . . . , and can be withdrawn from the proper fund in the State Treasury only upon a warrant as provided . . . .

Applying these authorities to the instant question, it is clear that their holdings would apply to TEC Centers who collect money under color of State law, and therefore must be construed to be holding the same for the benefit of the State, to be deposited with the State Treasurer.

It is therefore the opinion of this office, that all revenues collected by the Technical Education Centers, unless specifically excepted, are State monies, and are required to be deposited with the State Treasurer.

The only apparent exception to the above conclusion is found in Section 95 of the 1975–76 General Appropriations Act which exempts monies derived from athletic or other student contests, and other funds derived wholly from the activities of student organizations, including income from the operation of canteens and book stores. These funds are accordingly specifically exempt from the categorization of State Funds.

It must be noted, however, that while these funds may be retained at the institution, they are subject to State audit. It must further be noted that such exempt revenue, if unused at the end of the fiscal year, shall be used for institution operation before appropriations from the State's General Fund are requisitioned, Section 91, 1975–76 General Appropriation Act. This would apparently preclude the carrying over of these funds beyond the fiscal year without their being utilized for institution operating costs.

CONCLUSION:

It is the opinion of this office that revenue collected by the Technical Education Centers are State funds and must be deposited with the State Treasurer, with the exception of those funds derived wholly from athletic or other student contests, activities of student organizations, and income from the operation of book stores and canteens.

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