2010-089

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August 4, 2010

Honorable John Northrop
Executive Director
Alabama School of Fine Arts
1800 Rev. Abraham Woods Jr. Boulevard
Birmingham, Alabama 35203

Alabama School of Fine Arts - Public Funds - Meals - Students - Funds - Jefferson County

If the Alabama School of Fine Arts ("School") determines that an educational purpose is served, then the Board may purchase food for students participating in extracurricular activities by using fees and/or funds collected from the students and other non-state sources.

Dear Mr. Northrop:

This opinion of the Attorney General is issued in response to your request.

QUESTION

May the School purchase extracurricular-activity food for students on their behalf using fees and/or funds collected from the students and other non-state sources?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that the Alabama School of Fine Arts seeks guidance regarding the school's ability to purchase food for students participating in extracurricular activities when such food is purchased with funds collected from the students and other non-state sources. More particularly, your request further stated that

"[a]n example would be to purchase special meals for our dormitory students using the dorm fees collected each year. Another would be to purchase box lunches for a student field trip using the funds collected to pay for the trip."

Chapter 26B of title 16 of the Code of Alabama establishes the Alabama School of Fine Arts as an independent school to provide more challenging curriculum for gifted students. ALA. CODE § 16-26B-1 (1992). Section 16-26B-3 of the Code sets out that funding for the operations of the school will come from "legislative appropriations and by grants, donation, and funds from other sources, including the public and private sector." ALA. CODE § 16-26B-3(a) (1992).

The governing board of trustees of the School may:

> Accept donations, bequests, or other forms of financial assistance ***for educational purposes*** from any public or private sector persons or agencies and comply with rules and regulations governing grants from the federal government or from any other person or agency, ***which are not in contravention of the Constitution of Alabama of 1901 and laws.***

ALA. CODE § 16-26B-5(1) (1992) (emphasis added). This passage lays out the extent to which money contributed to the School may be used.

"Educational purposes" has been broadly construed by state courts. *See, e.g. Childree v. Hubbert*, 524 So. 2d 336, 342 (Ala. 1988). Educational purposes have been extended to include everything from excise gas taxes to the construction of a resort hotel on the Gulf. *County Bd. Of Educ. v. State ex rel. Carmichael*, 187 So. 414, 421 (Ala. 1939) (holding the payment of an excise gas tax applied to school buses used exclusively for the transportation of students and teachers to and from school was for an educational purpose); *Gulf State Park Auth. v. Gulf Beach Hotel,* 22 So. 3d 432 (Ala. 2009) (finding the construction of a resort at a state park was also considered an "educational purpose" under the specific facts of the case). More generally, the justices issued an opinion dealing with the manner of appropriating funds for public educational purposes where such purposes included capital improvement projects for athletics and recreation. *Opinion of the Justices* No. 255, 361 So. 2d 536 (Ala. 1978).

It is clear expenditures for educational purposes are given wide berth by the courts and this particular instance is buttressed by administrative regulation. Chapter 356-X-7.03(1) of the Alabama Administrative Code refers to the food service program provided by the school as an "auxiliary service to the educational program." ALA. ADMIN. CODE r. 356-X-7-.03(1) (1982). "Auxiliary" is defined as aiding or supporting, subsidiary, and supplementary. BLACK'S LAW DICTIONARY 155 (9th ed. 2009). If the board determines that providing food to students is serving an educational purpose, then the school may purchase extracurricular-activity food.

CONCLUSION

If the Alabama School of Fine Arts determines that an educational purpose is served, then the School may purchase food for students participating in extracurricular activities by using fees and/or funds collected from the students and other non-state sources.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:

Brenda F. Smith

BRENDA F. SMITH
Chief, Opinions Division

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