

INTER-OFFICE CORRESPONDENCE

Date: September 16, 1970

To: Bob Hauth
From: Rich Montecucco
Subject: Incidental Fees - Community Colleges
RCW 28B.15.500(1)(b) & (2)(b)

Any comments concerning Auditor Floyd Suess' questions are as follows:

Question 1: Once a portion of the incidental fee is voluntarily allocated to the ASB, such funds are still considered state funds.

Question 2: Political donations, e.g., to the Black Panthers, or Young Republicans, cannot be made from such ASB funds by the student body. It constitutes a gift of public funds.

Question 3: Student loan funds may not be established from such ASB funds. This would constitute a loan of the credit of the state. However, loans to needy and disadvantaged students only would be proper. See RCW 28B.10.280 allowing community colleges to create student loan funds and participate in the National Defense Education Act (needy and disadvantaged eligible).

Question 4: Athletic scholarships per se may not be established from such ASB funds.

Question 5: Such ASB funds may not be used for entertaining campus visitors who may be visiting or conferring with student groups. See, State ex rel. O'Connell v. Port of Seattle, 65 Wn.2d 801 (1965), prohibiting promotional hosting with state funds.

Question 6: Such ASB funds may be used to pay travel expenses of specific members of the ASB who represent the ASB at regional or national meetings. This answer assumes that the student attendance at such meetings directly benefits the ASB as a whole and is not solely for the benefit of only an isolated group or small number of students.

The basic philosophy underlying my answers is that the Associated Student Body (ASB) is an arm and agency of the institution and as such, fosters, conducts, and finances various programs for the benefit of the entire student body. See AGO 55-57 No. 267. Only because of this is the ASB eligible to receive a portion of the fees collected from the students under the statute to finance its activities for the benefit of all the students.

filed: ASB
Incidental Fees

RMM:ad

R.M.M.

December 2, 1970

Dr. William Muirhead
Dean of Students
Wenatchee Valley College
Wenatchee, Washington 98801

Dear Bill:

This is in reply to your letter of November 19, 1970 wherein you raise several questions about Rich Montecucco's inter-office correspondence to Robert Hauth which was made in response to a number of questions raised by Mr. Jim Curnutt and Mr. Floyd Suess of the Auditor's Office regarding incidental fees.

In question No. 2, Mr. Montecucco states "political donations, e.g., to the Black Panthers or Young Republicans, cannot be made from ASB funds by the student body. It constitutes a gift of public funds." It is my opinion that no matter what the club is, if it is separate and apart from the Associated Student Body Government and not actually handling a program of that government, and not directly controlled by that government, no funds may be allotted to that club. The mere fact that a club is chartered or recognized by the ASB does not make it a part of the ASB nor authorize it to receive state money nor to expend it. The Washington State Constitution in Article VIII, Section 5, states "...The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association, company or corporation." It is this language that Mr. Montecucco is relying on in his memorandum and which prohibits the ASB from allocating any money to clubs. The ASB may only expend its money in the furtherance of its own programs which presumably are observing an educational purpose or are in the general public interest of the student body as determined by the elected officers.

Dr. William Muirhead
December 2, 1979
Page Two

In question No. 6, Mr. Montecucco states "such ASB funds may be used to pay travel expenses of specific members of the ASB who represent the ASB at regional or national meetings." This answer assumes that the student attendance at such meetings directly benefits the ASB as a whole and is not solely for the benefit of only an isolated group or a small number of students. Your question was "from this response, one would conclude that only official ASB representatives or activities which are generally related to the entire student body will be eligible for travel support. It would follow, if this assumption is correct, that a club such as the Rodeo Club, B.S.U., or any other interest club would therefore not be eligible for travel support." Your assumption is correct, and I refer to the paragraph above in my discussion of clubs as a separate entity from the ASB. Here again, where these clubs are not a part of the ASB by direct official connections, and I do not mean chartering or recognition but more officially such as a sub-committee of the ASB, then state monies may not be allocated to them for their own uses. I appreciate your concern about the effect such a ruling would have on the student organizations which, as you state, serve a worthwhile function although they do not benefit the entire student body. However, these groups or clubs are not without alternative opportunity to continue their activities. If properly recognized or chartered, they may use the college facilities for fund raising activities such as dances or carnivals and the like, or sales of items, and may use such money collected, after paying a reasonable rental value for the college facility used, for the carrying out of their own particular interest activities.

I shall reserve my answer to question No. 5, which states "such ASB funds may not be used for entertaining campus visitors who may be visiting or conferring with student groups. See, State ex rel O'Connell v. Port of Seattle, 65 Wash. 2d, 801 (1965), prohibiting promotional hosting with state funds," until I have an opportunity to read the case and discuss this question with Mr. Montecucco.

Respectfully,

FOR THE ATTORNEY GENERAL

Steve Milam
Assistant Attorney General

cc: Pres. Steward