HONORABLE FREDERICK P. WHIDDON  
OFFICE OF THE ATTORNEY GENERAL  
STATE OF ALABAMA

JUL 29 1993

Dear Dr. Whiddon:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

May the University of South Alabama Student Government Association provide funding to the Gay, Lesbian and Bi-Sexual Alliance without violating § 16-1-28, Code of Alabama 1975, concerning the provision of funds to any group that promotes a lifestyle prohibited by the sodomy and sexual misconduct laws?

FACTS, LAW AND ANALYSIS

On February 19, 1992, the Office of the Attorney General issued an opinion addressed to the Honorable Perry O. Hooper, A.G. No. 92-00212, that concluded:

"It is our opinion that an organization that professes to be comprised of homosexuals and/or lesbians may not receive state funding or use state-supported facilities to foster or promote those
illegal, sexually deviate activities
defined in the sodomy and sexual
misconduct laws under §§ 13A-6-63,
13A-6-64, and 13A-6-65 of the Code of
Alabama 1975."

Subsequent to that opinion, the Alabama Legislature
enacted Act No. 92-439 which is codified as § 16-1-28, Code
of Alabama 1975. Subsection (a) of this statute provides:

"No public funds or public facil-
ities shall be used by any college or
university to, directly or indirectly,
sanction, recognize, or support the
activities or existence of any organi-
zation or group that fosters or promotes
a lifestyle or actions prohibited by the
sodomy and sexual misconduct laws of
Sections 13A-6-63 to 13A-6-65, inclusive."

In view of our previous opinion and the legislature's
action, we are constrained to answer your question in the
negative. Student Government Associations are subject to the
provisions of § 16-1-28, Code, supra.

CONCLUSION

The Student Government Association may not provide funds
to any organization that fosters or promotes a lifestyle or
actions prohibited by §§ 13A-6-63 to 13A-6-65, inclusive,

I hope this sufficiently answers your question. If our
office can be of further assistance, please do not hesitate
to contact us.

Sincerely,

JIMMY EVANS
Attorney General

By:

JAMES R. SOLOMON, JR.
Chief, Opinions Division