



**THE ATTORNEY GENERAL  
OF TEXAS**

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**AUSTIN, TEXAS 78711**

October 20, 1971

Hon. J. W. Edgar  
Commissioner of Education  
Texas Education Agency  
201 East Eleventh Street  
Austin, Texas 78701

Opinion No. M-M-977

Re: Construction of  
Subsection (a)(7)  
and (a)(2) of Sec-  
tion 32.39, Texas  
Education Code.

Dear Dr. Edgar:

In your request for an opinion you state the follow-  
ing:

"The Texas Proprietary School Act (House  
Bill 333, Chap. 620, Acts of 62nd Leg., R.S., 1971,  
at p. 2006, effective January 1, 1972) is codified  
as Chapter 32 in the Texas Education Code.

"Section 32.39(a) of the Code relates to  
and requires a Refund Policy of Proprietary Schools  
seeking certification under the Act; it reads:

"(a) As a condition for granting  
certification each school must maintain  
a policy for the refund of the unused  
portion of tuition, fees, and other charges  
in the event the student fails to enter  
the course, or withdraws, or is discontinued  
therefrom at any time prior to completion,  
and such policy must provide:

"(1) . . .

"(2) The effective date of the term-  
ination for refund purposes will be the  
earliest of the following:

"(A) the last date of attendance, if the student is terminated by the school;

"(B) the date of receipt of written notice from the student;

"(C) ten days following the last date of attendance;

" . . .

"(7) refunds shall be totally consummated within 30 days after receipt of written request or termination by the school.

" . . .

"The Proprietary School Advisory Commission is now engaged in a study and recommendations with respect to policies and standards toward implementation of the law (Section 32.23(f), T.E.C.).

"Some Commission members have an opinion that 'within 30 days' as used in subsection (a)(7) applies only to situations spelled out in (A) and (B) of subsection (2)(a); and because (a)(7) is silent with respect to (C) thereof. There are others that believe that the language of Section 32.39(a)(7) applies to all circumstances. The Commission would appreciate receiving and has asked that I submit its request to your office for an opinion whether:

"Subsection (a)(7) of Section 32.39, Texas Education Code, applies only to (A) and (B) of subsection (2)(a), or also to (C)."

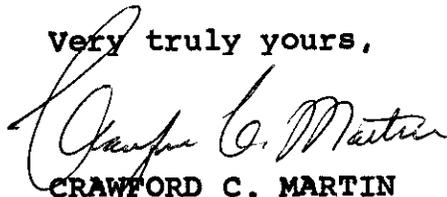
The provisions of subsection (a)(7) of Section 32.39 of the Texas Education Code relate only to the language found in paragraphs (A) and (B) of Subsection (a)(2) of said Section 32.39, and do not have application to said paragraph (C). It is our opinion that Subsection (a)(7) of Section 32.39, Texas Education Code, applies only to said paragraphs (A) and (B).

The written notice provision of paragraph (B) is available to all persons who fall within paragraph (C), and that notice would bring into operation subsection (a)(7).

S U M M A R Y

Subsection (a)(7) of Section 32.39, Texas Education Code, does not apply to paragraph (C) of Subsection (a)(2) of said Section 32.39.

Very truly yours,



CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by Jack Sparks  
Assistant Attorney General

APPROVED:  
OPINION COMMITTEE

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