



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

February 27, 1975

The Honorable Bevington Reed  
Commissioner, Coordinating Board  
Texas College and University System  
P. O. Box 12788, Capitol Station  
Austin, Texas 78711

Opinion No. H-541

Re: Whether a junior college  
is governed by section 13.101  
et seq. of the Education Code,  
relating to probationary and  
continuing contracts of employ-  
ment.

Dear Commissioner Reed:

You have requested our opinion concerning the applicability of chapter 13, subchapter C of the Education Code to junior colleges. Subchapter C deals with public school teachers' employment contracts and is applicable to "[e]ach teacher hereafter employed by any school district in this state. . . ." Education Code §13.101. Whether a junior college district is within the definition of "school district" apparently depends on the circumstances and context involved. See Shepherd v. San Jacinto Junior College District, 363 S. W. 2d 742 (Tex. Sup. 1962); Mumme v. Marrs, 40 S. W. 2d 31 (Tex. Sup. 1931); Williams v. White, 223 S. W. 2d 278 (Tex. Civ. App. --San Antonio 1949, writ ref.).

In our opinion, when the Education Code is viewed as a whole, it is clear that subchapter C applies only to those educational institutions within the jurisdiction of the Central Education Agency. Subchapter C provides for an appeal to the commissioner of education from certain orders discharging teachers. A further appeal to the State Board of Education is also provided. Education Code §13.115. However, with the exception of certain aspects of vocational and technical programs, neither the commissioner of education nor the State Board of Education exercises control over junior colleges, that control generally being vested in the Coordinating Board, local public junior college districts, and the governing

board of each public junior college. Education Code § 61.060. In addition, chapter 130 of the Education Code specifically governs junior college districts and grants to the Coordinating Board "general control of the public junior colleges of Texas." Education Code § 130.001.

The Legislature has provided for the exercise of this control by the Coordinating Board with respect to the faculty-institution relationship. Section 61.05 of the Education Code provides:

To achieve excellence in the teaching of students at institutions and agencies of higher education, the board shall:

(1) develop and recommend:

- (A) minimum faculty compensation plans, basic increment programs, and incentive salary increases;
- (B) minimum standards for faculty appointment, advancement, promotion, and retirement;
- (C) general policies for faculty teaching loads, and division of faculty time between teaching, research, administrative duties, and special assignments;
- (D) faculty improvement programs, including a plan for sabbatical leaves, appropriate for the junior and senior colleges and universities, respectively; and
- (E) minimum standards for academic freedom, academic responsibility, and tenure;

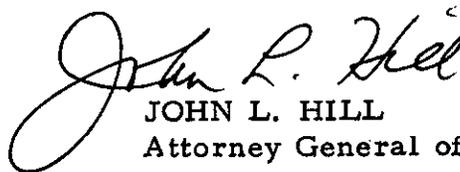
This section is applicable to "institutions and agencies of higher education." Expressly included within the definition of this term is "any public junior college." Education Code, § 61.003(7). Pursuant to section 61.057, the Coordinating Board has promulgated Policy Paper 1, "Academic Freedom, Tenure, and Responsibility for Faculty Members in Texas Public Colleges and Universities." In addition to the entitled subject matter, the Paper provides for written terms of employment, due process proceedings in dismissal cases and cases where academic freedom infringement is alleged, and the recruitment and resignation of faculty members.

Since public junior colleges are under the control of the Coordinating Board, such control encompassing faculty-institution relationships, and since the Central Education Agency exercises no such control, it is clear that chapter 13, subchapter C, of the Education Code was not intended to apply to public junior colleges. Consequently, "school district" as contained in section 13.101 does not encompass junior college districts.

SUMMARY

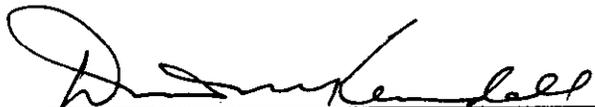
Chapter 13, subchapter C, of the Education Code is not applicable to teachers in public junior colleges.

Very truly yours,

  
JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

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