



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

May 30, 1989

Mr. Kenneth H. Ashworth  
Commissioner  
Higher Education Coordinating Board  
P. O. Box 12788  
Austin, Texas 78711

LO-89-45

Dear Commissioner Ashworth:

You ask for an opinion on the following question:

Does section 2D of article 5165a, Vernon's Texas Civil Statutes apply to Alamo Community College District?

Section 2D, which was added to article 5165a, V.T.C.S., in 1987, provides:

The governing board of an 'institution of higher education' or a 'university system,' as those terms are defined in Section 61.003, Education Code, may make exceptions to the minimum length of the work week and the maximum length of a work day in order to achieve and maintain operational efficiency at an institution of higher education, a university system, or any office, department, or division of either; provided, that no full-time salaried employee may be authorized to work less than forty (40) hours in a calendar week by reason of action taken pursuant to this section.

Acts 1987, 70th Leg., ch. 396, at 1920.

Section 2D on its face indicates that it applies to an "institution of higher education" or a "university system" as those terms are defined in section 61.003 of the Education Code. Section 61.003, subsection (8), provides that "institution of higher education" includes a "public junior college." Subsection (2) provides that "public junior college" means any junior college certified by the

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Texas Higher Education Coordinating Board in accordance with section 61.063. Section 61.063 provides that the commissioner of higher education shall certify to the state auditor and state comptroller before October 1 of each year the names of public junior colleges that have complied with the standards, rules, and regulations prescribed by the board.<sup>1</sup>

While we are not generally able to make findings of fact in the opinion process, we do understand that the Alamo Community College District was certified by the commissioner pursuant to section 61.063, in September 1988. Accordingly, assuming that the certification of the Alamo Community College District has been properly made by the commissioner of higher education pursuant to section 61.063 of the Education Code, the district is an "institution of higher education" within the meaning of section 2D, article 5165a, V.T.C.S., and is thus subject to that section's provisions.

Very truly yours,



William Walker  
Assistant Attorney General  
Opinion Committee

APPROVED: Sarah Woelk, Chief  
~~Letter Opinion Section~~

WW/mc

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1. Education Code section 61.028 provides for the commissioner of higher education's appointment by the Texas Higher Education Coordinating Board. Section 130.005 provides that the word "community" may be used in lieu of the word "junior" in the name of any junior college district.