



The Attorney General of Texas

December 22, 1982

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Mr. Raymon L. Bynum
Commissioner of Education
Texas Education Agency
201 East Eleventh Street
Austin, Texas 78701

Opinion No. MW-529

Re: Whether an institution of higher education may issue scholarships under section 54.201 of the Education Code to two students who tie for valedictorian

Dear Mr. Bynum:

You have requested our opinion regarding the application of section 54.201 of the Education Code. That statute provides:

The governing board of each institution of higher education may issue scholarships each year to the highest ranking graduate of each accredited high school of this state, exempting the graduates from the payment of tuition during both semesters of the first regular session immediately following their graduation. This exemption may be granted for any one of the first four regular sessions following the individual's graduation from high school when in the opinion of the institution's president the circumstances of an individual case, including military service, merit the action.

You ask whether an institution of higher education may issue a scholarship "to more than one person in the event that the school district in which such high school is located certifies a tie [for the title of 'highest ranking graduate']."

In our opinion, the use of the term "highest ranking graduate" in section 54.201 is not necessarily restricted to a single individual. "Highest" is used here, we believe, in the sense of "none higher." For example, a court observed in Ilges v. St. Louis Transit Company, 77 S.W. 93 (Mo. App. 1903),

there can be no degree of care higher than the highest.

If the two graduates are tied for the highest position, it is clear that both are the "highest" in the sense that no other graduates can occupy a higher position.

In addition, we believe that "graduate" may refer to more than one individual in an appropriate instance. Article 10, V.T.C.S., which contains the general rules of construction, provides, in pertinent part:

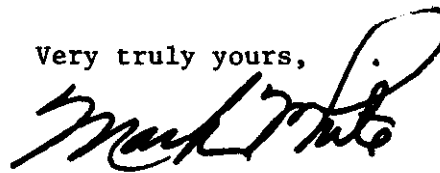
The singular and plural number shall each include the other, unless otherwise expressly provided.

We conclude that an institution of higher education is authorized to issue scholarships to more than one person in any case in which the relevant school district certifies a tie for the title of "highest ranking graduate."

S U M M A R Y

An institution of higher education is authorized to issue scholarships to more than one person in any case in which the relevant school district certifies a tie for the title of "highest ranking graduate," pursuant to section 54.201 of the Texas Education Code.

Very truly yours,



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