



MIDWESTERN STATE UNIVERSITY

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RQ-0178-JC

January 28, 2000

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OPINION COMMITTEE

Mr. John Cornyn, Attorney General
State of Texas
P.O. Box 12548
Austin, TX 78711-2548

FILE # ML-41252-00
I.D. # 41252

Attn: Opinion Committee

Re: Opinion Request:

Whether a previous donor of a faculty endowment fund and student scholarship fund may be granted a request to transfer the funds it provided from university accounts that are subject to the Public Funds Investment Act to a non-profit university foundation account to enable equity investment of those funds with no changes to the charitable purposes of the funds.

Dear Mr. Cornyn:

As President of Midwestern State University, I have been asked to request an opinion from your office for the question stated above.

In 1985, a gift of funds was accompanied by a letter from the donor, which after stating the designated purpose(s) of the gift, expressed a preference that the funds be managed by Midwestern State University, rather than its foundation. Because the Public funds Investment Act does not permit stock market investments, the Donor has now expressed a changed preference that the funds be managed by the University foundation, rather than the University. The proposed shift of funds would be made with the agreed provision that there would be no difference in purpose with regard to the use of the funds.

I have reviewed this request in the light of your opinions JC-0138 (November 3, 1999) and JC-0146 (November 15, 1999). Of those two opinions, the facts of JC-0138 would appear to be the more applicable. If so, and the funds described in this request are not general funds, but funds impressed with a charitable trust, the question above presented is biparticated to also pose the question of whether the transfer could be done by written agreement, or if the judicial proceedings suggested by JC-0138 must be followed.

We would appreciate your guidance and opinion in regard to this matter.

Very truly yours,

Louis J. Rodriguez
President

LJR:jrg

cc VIA FAX (940) 767-0559
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