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OPINION COMMITTEE

Texas
Commission on
Fire Protection



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July 15, 2004

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0255-GA FILE # ML-43870-04
I.D. # 43870

Re: Request for Formal Attorney General Opinion regarding Subchapter C of Chapter 419 of the Texas Government Code

Dear General Abbott:

On behalf of the Texas Commission on Fire Protection ("Commission"), I am requesting a formal opinion from the Office of the Attorney General on an issue that has recently been brought before the Commission.

The Commission administers the Fire Department Emergency Program (FDEP) under Subchapter C of Chapter 419 of the Texas Government Code. The purpose of the FDEP is to promote efficient fire protection for Texas residents by providing loans or grants to eligible local fire departments and public fire fighting organizations.

Currently, the Commission awards scholarships to eligible entities under Section 419.058, which states that the entity "may use a scholarship or grant awarded under this subchapter only to educate and train its members . . ." The Commission's scholarship awards are in the form of a \$600 grant, which provides reimbursement for tuition, and room and board to entities for their fire fighters who attend Texas Engineering Extension Service (TEEX) annual fire fighting schools. The \$600 amount is based on actual 2003 costs for an individual to attend the five-day TEEX Annual Municipal School training at the College Station campus. These costs include \$350 for tuition, \$150 for a dormitory room, and \$100 for a cafeteria meal ticket at the TEEX facility. However, if the individual chooses to stay and eat at a place other than a TEEX facility, then FDEP will make a reimbursement for room and board receipts up to \$250.

For several years, the TCFP has considered room and board an essential part of providing the education and training under this statute. Many of the fire fighters who are awarded these scholarships are volunteers who must leave their regular jobs to attend the schools. By providing room and board with tuition, the TCFP facilitates attendance by fire fighters who might otherwise not be able to afford being away from their regular jobs. To this date, the Commission has never awarded scholarships that provide for reimbursement of room and board only.

The Texas Forest Service (TFS) also provides tuition for some fire fighters to attend TEEX annual schools. However, TFS does not provide reimbursement to these fire fighters for room and board. The question has been raised as to whether or not the Commission could fund room

and board for fire fighters who attend the TEEEX annual schools under a TFS tuition-only scholarship.

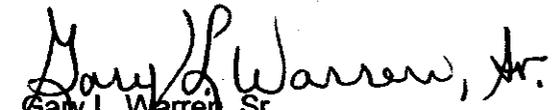
The authority for the Texas Forest Service to pay for "equipment and training" of volunteer fire department personnel is found at Texas Government Code Section 614.072(a). The TCFP statute, Section 419.058 of the Government Code, allows the TCFP to provide grants and scholarships for fire departments and organizations to "educate and train" their members. The Forest Service contends that the cost for room and board is not included in the term "training." If this is correct, how can the TCFP reimburse room and board under the term "educate and train?"

The Commission is asking the following questions:

1. Does the TCFP have the statutory authority under Subchapter C of Chapter 419 of the Government Code to include room and board reimbursement as part of a FDEP tuition scholarship for individual students attending a training school?
2. Does the TCFP have the statutory authority under Subchapter C of Chapter 419 of the Government Code to provide only room & board reimbursement, as being within the scope "to educate and train" individual students attending a training school, while using another state agency's scholarship to cover the tuition costs?

Thank you for your attention to this request. If you or members of your staff require any additional information, please do not hesitate to contact me at (512) 239-4913. Also, the Commission's attorney, Robert L. Seibert, an Assistant Attorney General, is familiar with this matter and may be reached at (512) 475-1556.

Sincerely,


Gary L. Warren, Sr.
Executive Director