



The Senate of
The State of Texas

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AUG 05 2005

OPINION COMMITTEE

JON LINDSAY

District 7

August 4, 2005

Committees

Nominations, Chair

Health and Human Services

Natural Resources

Transportation and Homeland
Security

RQ-0371-GA

The Honorable Greg Abbott
Attorney General of the State of Texas
Opinion Committee
P. O. Box 12548
Austin, Texas 78701

FILE # ML-44307-05

I.D. # 44307

RE: Request for Opinion

Dear General Abbott:

My office received correspondence from Mr. Steve Dunbar, a constituent of mine, regarding section 54.208 of the Education Code. Included in this section of the Education Code is language concerning firefighters who are enrolled in fire science courses and their exemption from tuition payments for those courses.

There is confusion regarding which schools may grant exempt status, whether it be a four-year university and/or a community college. Also, there is question regarding which of the four fire science and technology majors are authorized to be reimbursed by the Higher Education Coordinating Board.

To clarify this confusion the Texas Legislative Council was contacted as well at the Higher Education Coordinating Board. Attached please find more detailed research conducted by my staff on this matter. The Texas Legislative Council concurred with Mr. Dunbar's opinion that he should be receiving free tuition and should hold exemption status. However, a member of the Higher Education Coordinating Board felt that all four majors are not exempt from payment and in fact only the "Fire Science" major is exempt.

It is evident that this section of the Education Code is unclear. I respectfully request your opinion on this issue. Please contact me with any additional questions at (512) 463-0107. Thank you for your assistance with this matter.

Sincerely,

JON LINDSAY
State Senator

JSL/ckm

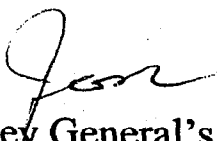


The Senate of
The State of Texas

JON LINDSAY
District 7

Committees
Nominations, *Chair*
Health and Human Services
Infrastructure Development
and Security
Natural Resources

MEMORANDUM

TO: Senator Florence Shapiro
FROM: Senator Jon Lindsay 
RE: Constituent Request/Attorney General's Opinion
DATE: 03/08/2005

My office received the attached letter from a constituent, Mr. Steve Dunbar. Mr. Dunbar has requested that we seek an Attorney General's opinion regarding section 54.208 of the Education Code. This part of the Education Code requires that firefighters enrolled in fire science courses be exempt from tuition payments in those courses. Mr. Dunbar is a firefighter who is currently enrolled in a fire safety program at the University of Houston. He claims that he is being denied a tuition exemption for this course work.

My office spoke with Jennifer Jackson in the Texas Legislative Council. She concurred with Mr. Dunbar's opinion that he should be receiving free tuition and opined that the law required that four-year universities and community colleges alike grant exempt status. She also said that any of the four fire science and technology majors authorized by the Higher Education Coordinating Board would be included in this regulation.

A member of my staff then spoke with a representative of the Higher Education Coordinating Board who felt that all four majors were not exempt from payment of tuition; only the "Fire Science" major itself is exempt. He then said that the legislation was unclear and he was uncertain as to whether or not it applied to community colleges.

My staff subsequently spoke with Ms. Judy Stubblefield who is the Assistant to the Chancellor at North Harris Community College District, one of the colleges about which Mr. Dunbar had complained. The general counsel for that school, Sandra McMullen, in coordination with the counsels of the other schools mentioned in Mr. Dunbar's letter were in the process of researching that particular part of the Code as well. They concluded that the Code applied neither to community colleges nor to all four of the science and technology majors. Ms. Stubblefield suggested to my staff that the community college district recognized the confusing nature of the statute.

As this is a matter of the Education Code, I am forwarding it to your office in order that you might decide whether or not an attorney general's opinion is warranted. Attached is a record of our correspondence with Mr. Dunbar.

Please let me know if you have any questions or concerns. Thank you for your assistance.

JSL/js/ld

Attachment

January 16, 2005

The Honorable John Lindsay
P.O. Box 12068
Austin, Texas 78711

RECEIVED
SENATOR LINDSAY
JAN 21 2004
Subject:
Researcher:

Dear Sir:

Enclosed you will find letters that summarize requests for opinions from the Texas Attorney General. I need your assistance in requesting these, as you are one of the Senators who are authorized to do this. I am a resident of your district in Harris County; and, these topics may affect other citizens in Harris County.

The schools that are the main focus of these requests are North Harris and Houston Community Colleges. HCCS has knowingly overcharged perhaps hundreds of students.

I will be happy to discuss any of these requests with you at your convenience. You may reach me at 281-373-0635.

Sincerely,



Steve Dunbar

January 16, 2005

The Honorable John Lindsay
P.O. Box 12068
Austin, Texas 78711

Dear Sir:


The Texas Education Code allows for the exemption of tuition for fire fighters enrolled in fire science classes.

§ 54.208. FIREMEN ENROLLED IN FIRE SCIENCE COURSES. The governing boards of the state institutions of collegiate rank supported in whole or in part by public funds shall exempt from the payment of tuition and laboratory fees any person who is employed as a fireman by any political subdivision of the state and who enrolls in a course or courses offered as part of a fire science curriculum. The exemption provided does not apply to deposits which may be required in the nature of security for the return or proper care of property loaned for the use of students.

Added by Acts 1971, 62nd Leg., p. 3345, ch. 1024, art. 2, § 16,
eff. Sept. 1, 1971.

Several colleges have changed the name of their degree to reflect something other than fire science (i.e. Fire and Safety Engineering, Fire Service Management, etc). This is perhaps so the school will not have to allow this exemption. To be fair to our fire fighters statewide, and to conform to the intent of this statute, we request a clarification from the Texas Attorney General, stating any fire-related degree will fall under TEC 54.208. This will allow fire fighters to attend the school of their choice, not just the one which concedes that their degree falls under the fire science statute.

Sincerely,



Steve Dunbar

January 16, 2005

The Honorable John Lindsay
P.O. Box 12068
Austin, Texas 78711

Dear Sir:

The Texas Education Code allows for certain students to be exempted from paying college tuition. The general categories of these students are:

SUBCHAPTER D. EXEMPTIONS FROM TUITION

§ 54.201. HIGHEST RANKING HIGH SCHOOL GRADUATES.

§ 54.203. VETERANS, DEPENDENTS, ETC.

§ 54.204. CHILDREN OF DISABLED FIREMEN AND PEACE OFFICERS.

§ 54.2041. DISABLED PEACE OFFICERS.

§ 54.205. BLIND, DEAF STUDENTS.

§ 54.207. STUDENTS FROM OTHER NATIONS OF THE AMERICAN
HEMISPHERE.

§ 54.208. FIREMEN ENROLLED IN FIRE SCIENCE COURSES.

§ 54.209. CHILDREN OF PRISONERS OF WAR OR PERSONS MISSING IN
ACTION.

§ 54.210. SENIOR CITIZENS.

§ 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER
RESIDENTIAL CARE.

§ 54.2111. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN
FOSTER OR OTHER RESIDENTIAL CARE.

§ 54.212. ONE-YEAR EXEMPTION FOR CERTAIN TANF STUDENTS.

§ 54.214. EDUCATIONAL AIDES.

§ 54.219. PRISONERS OF WAR.

Besides tuition, out-of-district fees and fees that are necessary for the effective operation of the school are exempted. Locally, a community college was charging out-of-district fees to these students until it was pointed out that this fee was part of tuition.

This school currently charges every student a general fee, as designated on page 25 of their handbook and referenced online at <http://www.hccs.edu/catalog/GenInfo.pdf>.

*General fees include all registration, student services matriculation, and other administrative fees to cover general classroom use, library facilities, student services facilities, etc.

The students listed above are paying close to \$20 an hour for this general fee. In the TEC, this fee is addressed as follows:

January 16, 2005

§ 54.0513. DESIGNATED TUITION. (a). In addition to amounts that a governing board of an institution of higher education is authorized to charge as tuition under the other provisions of this chapter, the governing board, under the terms the governing board considers appropriate, may charge any student *an amount designated as tuition* that the governing board considers necessary for the effective operation of the institution.

§ 130.123. (d)...said fees may be fixed and collected as general fees for the general use or availability of the institution or institutions.

We would like to request an opinion to clarify that this general/general use fee is part of tuition as designated by the Texas Education Code reference above.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Dunbar", with a long horizontal line extending to the right.

Steve Dunbar

January 16, 2005

The Honorable John Lindsay
P.O. Box 12068
Austin, Texas 78711

Dear Sir:

The State of Texas Education Code allows for the exemption of tuition by colleges for firemen enrolled in courses that are part of a fire science curriculum.

§ 54.208. FIREMEN ENROLLED IN FIRE SCIENCE COURSES. The governing boards of the state institutions of collegiate rank supported in whole or in part by public funds shall exempt from the payment of tuition and laboratory fees any person who is employed as a fireman by any political subdivision of the state and who enrolls in a course or courses offered as part of a fire science curriculum. The exemption provided does not apply to deposits which may be required in the nature of security for the return or proper care of property loaned for the use of students.

Added by Acts 1971, 62nd Leg., p. 3345, ch. 1024, art. 2, § 16,
eff. Sept. 1, 1971.

Certain colleges in the Houston area disallow this exemption for fire fighters who are not enrolled in that school's degree program or already have a degree. This does not allow these members to further advance their education and/or job knowledge unless they pay for their tuition of out pocket. For example, Hazardous Materials II is a class that a certain college offers in the fire science curriculum. It is not however, part of the AAS degree for that school. In this time of Weapons of Mass Destruction concerns, a fire fighter might want to familiarize himself, through this class, with hazards of these types.

It should not matter if the fire fighter is enrolled in that degree program, or that he/she has a degree. The statute says that the tuition is exempted if it is *part* of a fire science curriculum. We would like to get an opinion to clarify that any class that is part of a school's fire science curriculum is to be exempted, no matter the status of the student.

Sincerely,


Steve Dunbar

January 16, 2005

The Honorable John Lindsay
P.O. Box 12068
Austin, Texas 78711

Dear Sir:

The Texas Education Code allows for certain students to be exempted from paying college tuition. The general categories of these students are:

SUBCHAPTER D. EXEMPTIONS FROM TUITION

- § 54.201. HIGHEST RANKING HIGH SCHOOL GRADUATES.
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- § 54.204. CHILDREN OF DISABLED FIREMEN AND PEACE OFFICERS.
- § 54.2041. DISABLED PEACE OFFICERS.
- § 54.205. BLIND, DEAF STUDENTS.
- § 54.207. STUDENTS FROM OTHER NATIONS OF THE AMERICAN HEMISPHERE.
- § 54.208. FIREMEN ENROLLED IN FIRE SCIENCE COURSES.
- § 54.209. CHILDREN OF PRISONERS OF WAR OR PERSONS MISSING IN ACTION.
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- § 54.2111. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN FOSTER OR OTHER RESIDENTIAL CARE.
- § 54.212. ONE-YEAR EXEMPTION FOR CERTAIN TANF STUDENTS.
- § 54.214. EDUCATIONAL AIDES.
- § 54.219. PRISONERS OF WAR.

Several students attend junior/community colleges and take classes toward a degree at a four-year institution. Often, it is a matter of convenience for these students. These schools gladly take the students' tuition payments without question. The students listed above should be afforded the same opportunity, whether they pay or are exempted from paying tuition, according to the Texas Education Code. To disallow a student, who is tuition exempt, to take courses because they are not paying is a violation of the Equal Protection Clause of the 14th Amendment.

We would like to request an opinion from the Attorney General, stating that students who have presented a letter of intent to attend a four-year institution, and who have a degree plan filed at such institution, be exempted from paying tuition at the junior/community college for courses that are part of that degree, in accordance with TEC Chapter 54.

January 17, 2005

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Dunbar', with a long horizontal flourish extending to the right.

Steve Dunbar