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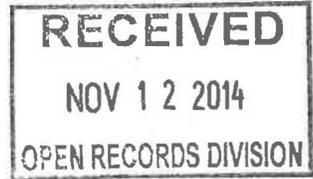
**TEXAS HIGHER EDUCATION
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RQ-1230-GA

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November 3, 2014



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

FILE # ML-47664-14
ID. # 47664

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

RE: Request for an opinion regarding Paul Quinn College's eligibility to participate in the Texas B-On-time Loan Program

Dear General Abbott:

Paul Quinn College has asked the Texas Higher Education Coordinating Board to request an Attorney General's opinion in regard to its eligibility to participate in one of the State's financial aid programs for students, the Texas B-On-time Loan Program. Based on its current eligibility to participate in another of the State's financial aid programs, the Tuition Equalization Grant Program, Paul Quinn College has indicated its view that it should be allowed to participate in the Texas B-On-time Loan Program.

Background

Prior to the passage of Senate Bill 976 during the 83rd Regular Session of the Texas Legislature, participation in the Tuition Equalization Grant Program was limited to those private or independent institutions of higher education as defined by Texas Education Code §61.003(15) as being accredited by either the Commission on Colleges of the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, or the American Bar Association. Senate Bill 976, codified as Texas Education Code §§61.222(b) and (c), expands eligibility under certain circumstances for the Tuition Equalization Grant Program to institutions that previously qualified to participate in the program as private or independent institutions of higher education under Texas Education Code §61.003(15), but that no longer hold the same accreditation as a public institution of higher education.

Texas Education Code §§61.222(b) and (c) state:

- (b) The coordinating board may temporarily approve a private or independent institution of higher education as defined by Section

61.003 that previously qualified under Subsection (a) but no longer holds the same accreditation as public institutions of higher education.

To qualify under this subsection, an institution must be:

- (1) accredited by an accreditor recognized by the board;
- (2) actively working toward the same accreditation as public institutions of higher education;
- (3) participating in the federal financial aid program under 20 U.S.C. Section 1070a; and
- (4) a "part B institution" as defined by 20 U.S.C. Section 1061(2) and listed in 34 C.F.R. Section 608.2.

(c) The coordinating board may grant temporary approval for a period of two years and may renew the approval once.

Although Paul Quinn College formerly was accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS), it now is accredited by the Transnational Association of Christian Colleges and Schools (TRACS). It has held that accreditation since April 2011. (See attached letter from TRACS to Paul Quinn College.) There is no dispute as to Paul Quinn College's current eligibility to participate in the Tuition Equalization Grant Program under the authority granted by Texas Education Code §§61.222(b) and (c) and these funds have been distributed to Paul Quinn College.

Discussion

Paul Quinn College has indicated its view that the authority granted by Texas Education Code §§61.222(b) and (c) also authorizes the Texas Higher Education Coordinating Board to allow the college to participate in the Texas B-On-time Loan Program.

The Texas B-On-time Loan Program is established by Subchapter Q of Chapter 56 of the Texas Education Code. Institutions eligible to participate in the program are defined by Texas Education Code §56.451(2). Under this statute, the definition of private or independent institution of higher education is the definition established by Texas Education Code §61.003(15). Because Paul Quinn College is accredited by TRACS rather than by SACS, Paul Quinn College, by statute, apparently cannot meet the definition of an eligible institution given the definition of a private or independent institution of higher education under Texas Education Code §61.003(15).

Additionally, the legislative history of Senate Bill 976 does not indicate any intent for the legislation to apply to the Texas B-On-time Loan Program or any other financial aid programs, aside from the Tuition Equalization Grant. As filed, the bill only proposed changes to the eligible institutions for the

Tuition Equalization Grant Program. At no point during the legislative process were amendments allowing for participation in other state financial aid programs filed or introduced. The bill passed on the local and uncontested calendar of both the House of Representatives and the Senate.

Finally, the Code Construction Act, particularly Texas Government Code §311.026(b), holds that when a general provision conflicts with a special or local provision, the provisions shall be construed, if possible, so that effect is given to both. In this instance, Texas Education Code §61.222(b) is the special provision and Texas Education Code §61.003(15) is the general provision. Following the principles of the Code Construction Act, the temporary exception contained in Texas Education Code §61.222(b) would apply only to eligibility to participate in the Tuition Equalization Grant Program while the more general definition of a private or independent institution of higher education established by Texas Education Code §61.003(15) would apply to eligibility to participate in the Texas B-On-time Loan Program.

Conclusion

It appears, based on the foregoing, that Paul Quinn College is precluded from participating in the Texas B-On-time Loan Program unless and until it again becomes accredited by SACS. However, given Paul Quinn College's request for an official opinion, the Texas Higher Education Coordinating Board, pursuant to Texas Government Code §402.042, requests that you issue an Opinion regarding the issue presented by this situation.

Thank you very much for your assistance in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mr. A. Paredes", written in a cursive style.

Raymund A. Paredes

c: Michael J. Sorrell, President
Paul Quinn College