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July 14, 2015

FILE # MI-47760-15

I.D. # 47760

RQ-0034-KP

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Honorable Ken Paxton
Attorney General of Texas
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RE: Request for Opinion--Eligibility for Forgiveness Pursuant to the B-On-time Loan Program

Dear General Paxton:

In accordance with Section 402.042 of the Texas Government Code, the Texas Higher Education Coordinating Board (THECB) respectfully requests your opinion on whether THECB should forgive a B-On-time loan under certain circumstances described herein. Any decision concerning forgiveness would be pursuant to Texas Education Code, Chapter 56, Subchapter Q, Texas B-On-time Loan Program, §56.462 and Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter E §21.129, Forgiveness of Loans¹. The purpose of the B-On-time loan program is to provide eligible Texas students forgivable no-interest loans to enable those students to earn baccalaureate degrees at public and private or independent institutions of higher education in Texas.

THECB requests that you render an opinion on the question of whether it should forgive a B-On-time loan provided to a student who amassed significantly more total credit hours than permitted under the B-On-time loan program but whose excess hours were ostensibly obtained in order to gain or maintain employment and were taken at a different university than that from which the student graduated.

Background on the B-On-time Loan Program

The B-On-time loan program was created in 2003 to improve access to higher education in Texas. The purpose of the program, as noted, is to provide Texas students no-interest loans to "attend all public and private or independent institutions of higher of higher education in this state."² Texas Education Code, Section 56.452(b).

¹ The regulatory regimen created by THECB to administer the B-On-time loan program was promulgated under the applicable provisions of Texas Education Code, §§56.451-56.465.

² The 83rd Texas Legislature, in Senate Bill 215, changed certain of the prior requirements of the B-On-time program listed here. See Sections 15 through 21 of S.B. 215. Such prior requirements pertain to this matter. The B-On-time program was the subject of legislation by the 84th Texas Legislature as well. See House Bill 700. That legislation should not impact this request.

THECB has authority to forgive loans provided under the B-On-time Program. Such authority is provided under Education Code, Section 56.462 and 19 TAC §21.129. Education Code, Section 56.462, Loan Forgiveness, provides that:

A student who receives a B-On-time loan shall be forgiven the amount of the student's loan if the student is awarded an undergraduate certificate or degree at an eligible institution with a cumulative grade point average of at least 3.0 on a four-point scale or the equivalent:

- (1) Within:
 - (A) Four calendar years after the date the student initially enrolled in the institution or another eligible institution if:
 - (i) The institution is a four year institution; and
 - (ii) The student is awarded a degree other than a degree in engineering, architecture, or any other program determined by the coordinating board to require more than four years to complete;
 - (B) Five calendar years after the date the student initially enrolled in the institution or eligible institution if:
 - (i) The institution is a four year institution; and
 - (ii) The student is awarded a degree in engineering, architecture, or any other program determined by the coordinating board to require more than four years to complete; or
 - (iii) Two years after the date the student initially enrolled in the institution or other another eligible institution if the institution is a public junior college or public technical institute; or
- (2) With a total number of semester credit hours, including transfer credit hours and excluding hours earned exclusively by examination, hours earned for a course for which the student received credit toward the student's high school academic requirements, and hours earned for developmental coursework that an institution of higher education required the student to take under Section 51.3062 or under the former provisions of Section 51.306, that is not more than six hours more than the minimum number of semester credit hours required to complete the certificate or degree.

19 TAC Section 21.129 states:

A Texas B-On-time loan shall be forgiven if the student is awarded a baccalaureate degree from an eligible institution, and the student either:

- (1) graduated with a B average, or the equivalent of a cumulative grade point average of at least 3.0 on a four-point scale, and received:
 - (A) a baccalaureate degree within four calendar years after the date the student initially enrolled in an eligible institution;
 - (B) a baccalaureate degree within five calendar years after the date the student initially enrolled in an eligible institution if the institution has reported or will report that the student graduated with a degree in architecture, engineering, or any other program that the institution certifies to the Board is a program that requires more than four years to complete; or

- (2) graduated with a B average, or the equivalent of a cumulative grade point average of at least 3.0 on a four-point scale, with a total number of course credit hours earned, including transfer credit hours and excluding hours earned exclusively by examination, dual credit course hours, and hours earned for developmental coursework that an institution required the student to take under Texas Education Code, §51.3062 (relating to Success Initiative), or under the former provisions of Texas Education Code, §51.306 (relating to Texas Academic Skills Program), that is not more than six hours more than the number of credit hours required to complete a baccalaureate degree.

Issues for Decision

THECB seeks guidance on the scenario described in this subsection.

Should a B-On-time loan be forgiven where a student has taken more than seven years to obtain a baccalaureate degree that required 120 credit hours to complete and the student graduated with a grade point average (GPA) of 3.03 and with 121 credit hours, more than ten per cent (10%) of which were awarded on the basis of "Life/Work Experience"? Typically, such a student's B-On-time loan might be forgiven pursuant to §56.462(2) of the Texas Education Code and 19 TAC §21.129(2).

However, in the situation described, if such student also took an additional 36 credit hours at a different public university during the same time frame, ostensibly to obtain or maintain a job with the student's employer, should such hours disqualify the student from having the B-On-time loan forgiven? Such hours appear to have been considered by the institution from which the student graduated as part of the totality of the "Life/Work Experience" that resulted in the award of significant credit hours for such "experience", thereby allowing the student to finally graduate at that point in time with the requisite GPA.

Given the foregoing, should the THECB forgive such a student's B-On-time loan or, conversely, require repayment?

Thank you for your consideration of this matter.

Respectfully submitted,



Raymund A. Paredes
Commissioner of Higher Education

Cc: Opinion.Committee@texasattorneygeneral.gov