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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE  
ATTORNEY GENERAL

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501 WASHINGTON AVENUE  
P.O. BOX 300152  
MONTGOMERY, AL 36130-0152  
(334) 242-7300  
WWW.AGO.STATE.AL.US

Honorable Ronald L. Jones, Chief Examiner  
Department of Examiners of Public Accounts  
Post Office Box 302251  
Montgomery, Alabama 36130-2251

Colleges and Universities – Tuition –  
Postsecondary Education, Department of –  
Internet

Section 16-64-4 of the Code of Alabama  
applies to tuition for online courses.

Dear Mr. Jones:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

Does section 16-64-4 of the Code apply to tuition for web-based courses taken online over the Internet, and should students registered as nonresidents be required to pay a minimum tuition of two times the resident tuition rate charged by that institution for these courses?

FACTS AND ANALYSIS

The nonresident tuition rates for institutions of higher education are provided for in section 16-64-1, *et seq.*, of the Code of Alabama. ALA. CODE §§ 16-64-1 to 16-64-7 (2001). Section 16-64-4(a) sets minimum tuition and provides for an exception as follows:

(a) Each Alabama public institution of higher education shall charge each *undergraduate* student who is registered as a *nonresident a minimum tuition of two times the resident tuition rate* charged by that

institution. This rate shall be effective for students who register at an institution beginning August 1, 1997. A ***nonresident graduate student*** at an institution shall be charged a rate of tuition that is ***at least at the level of tuition charged to a nonresident undergraduate.***

(b) The governing boards of each four-year public institution of higher education shall retain the power to extend ***resident tuition rates to students who reside in any county within 50 miles of a campus*** of the institution; provided, however, that campus must be in existence and operating as of January 1, 1996. For public two-year institutions, the State Board of Education, upon the recommendation of the Chancellor of the Department of Postsecondary Education, shall retain the power to extend resident tuition rates to students who reside in any county within 50 miles of a campus of the institution; provided, however, that campus must be in existence and operating as of January 1, 1996.

ALA. CODE § 16-64-4 (2001) (emphasis added).

In addition, section 16-64-7 allows another exception for “those ***off-campus*** offerings on military bases conducted by colleges and universities.” ALA. CODE § 16-64-7 (2001) (emphasis added).

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994). The fundamental rule of construction is to ascertain and give effect to the intent of the Legislature in enacting the statute. *Ex parte Ala. Dep't of Mental Health & Mental Retardation*, 840 So. 2d 863, 867 (Ala. 2002); *Gholston v. State*, 620 So. 2d 719, 721 (Ala. 1993).

Courts look for the legislative intent in the language of the act, and although that language may be explained, one cannot detract from it nor add to it. *Ala. Indus. Bank v. State ex rel. Avinger*, 286 Ala. 59, 62, 237 So. 2d 108, 110 (1970); *May v. Head*, 210 Ala. 112, 96 So. 869, 870 (1923). Where a statutory pronouncement is distinct and unequivocal, there remains no room for judicial construction, and the clearly expressed intent of the Legislature must be

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given effect. *Ex parte Holladay*, 466 So. 2d 956, 960 (Ala. 1985); *Dumas Bros. Mfg. Co. v. S. Guar. Ins. Co.*, 431 So. 2d 534, 536 (Ala. 1983).

Section 16-64-4(a) requires that nonresident undergraduates and graduates pay twice the tuition that resident undergraduates pay without qualification. Online courses are not included among the exceptions to the minimum tuition in sections 16-64-4(b) and 16-64-7.

We note this opinion should be applied prospectively beginning with the next academic year. *See* opinions to Honorable John F. Porter, III, Attorney, Jackson County Commission, dated March 25, 2011, A.G. No. 2011-048 (annual distributions of in-lieu-of-tax payments received from the Tennessee Valley Authority); Honorable Terry Spicer, Member, House of Representatives, dated December 20, 2005, A.G. No. 2006-035 (education funds).

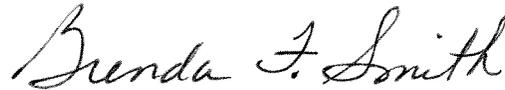
#### CONCLUSION

Section 16-64-4 of the Code applies to tuition for online courses.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

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