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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.ALABAMA.GOV

Honorable W. Clyde Marsh, Commissioner
Alabama Department of Veterans Affairs
Post Office Box 1509
Montgomery, Alabama 36102-1509

Veterans Affairs – Tuition –
Education – Education Trust Fund –
Students

Eligible out-of-state participants under the Alabama G.I. Dependents Scholarships should be assessed in-state tuition and fees. Any tuition, fees, and books waived by an institution for an eligible student are to be paid for by the Alabama Education Trust Fund.

Dear Commissioner Marsh:

This opinion of the Attorney General is issued in response to your request on behalf of the Alabama Department of Veterans Affairs.

QUESTIONS

(1) Under Act 2014-177, are out-of-state students considered in-state students and charged the in-state rate only by virtue of participating in the program?

(2) If the answer to Question 1 is in the negative, are the schools required to charge out-of-state students the balance of their out-of-state tuition once the in-state rate is applied?

FACTS AND ANALYSIS

The Alabama Department of Veterans Affairs (“ADVA”) is charged with administering the program known as the Alabama G.I. Dependents’ Scholarships (“Program”), which is codified in sections 31-6-1 through 31-6-17 of the Code of Alabama. ALA. CODE §§ 31-6-1 to 31-6-17 (2011). The Program provides free tuition, books, and instructional fees at any state-supported institution of higher learning, college, or university to qualified dependents of eligible disabled veterans. *Id.* The Education Trust Fund (“EFT”) reimburses the schools for the benefits granted under the Program. 2014 Ala. Acts No. 2014-177 (amending ALA. CODE § 31-6-15). The schools submit certified invoices to the ADVA that the ADVA reviews and approves for reimbursement from the EFT. *Id.* The ADVA is also charged with informing veterans and dependents about these benefits. ALA. CODE § 31-6-12 (2011).

Recently, the statutory provisions dealing with the Program were amended as a result of Act 2014-177. 2014 Ala. Acts No. 2014-177. You seek clarification regarding the manner in which these changes should be interpreted. Specifically, you ask whether out-of-state students should be considered in-state students and charged in-state rates by virtue of the Program. Section 31-6-4 of the Code of Alabama authorizes the repayment of educational benefits for children of deceased or disabled veterans or prisoners of war. Section 31-6-5 of the Code authorizes the repayment of educational benefits for spouses of deceased or disabled veterans or prisoners of war. Finally, section 31-6-6 of the Code authorizes the repayment of educational benefits for spouses and children of partially disabled veterans. All of these sections received the same amendatory language that was added as subsection (b). This amendment states as follows:

Except as provided in Section 31-6-11(e), the educational benefits provided by this section to children making application for benefits for the first time beginning with the fall term of the 2014-2015 academic year, and thereafter, shall be limited to undergraduate courses of study only, ***and the value of tuition paid shall be limited to the in-state tuition rate of the Alabama state institution of higher learning, college, or university attended.***

2014 Ala. Acts No. 2014-177 (amending ALA. CODE §§ 31-6-4, 31-6-5, 31-6-6).

Based upon a subsequent conversation, you informed this Office that questions have apparently arisen among the universities regarding the meaning to be given to subsection (b). These institutions question whether subsection (b) requires all eligible applicants to be treated as in-state students and charged at an in-state rate or whether the students that are out of state may receive the in-state tuition rate, but are required to pay the difference between the in-state and the out-of-state tuition rate.

When analyzing a particular statute, the provision should not be interpreted in isolation, but in the context of the entire statutory scheme. *Siegelman v. Ala. Ass'n of School Boards*, 819 So. 2d 568, 582 (Ala. 2001). The provisions of section 31-6-1 through 31-6-17 all relate to the educational scholarship benefits available for postsecondary education to veterans and dependants of veterans. These particular benefits are separate and distinct from the benefits offered through the federal government. *See, generally*, ALA. CODE § 31-6-6 (amended by 2014 Ala. Acts No. 2014-177).

In addition to the provision of subsection (b), sections 31-6-4, 31-6-5, and 31-6-6 all have other similar language that preceded the changes found in Act 2014-177. Each of these sections, with some slight variation, states that an eligible participant may attend any Alabama college or trade school “without paying any tuition, fees, or books whatsoever”. 2014 Ala. Acts No. 2014-177 (amending ALA. CODE §§ 31-6-5, 31-6-4 and 31-6-6). The benefits offered by the Program are reserved for Alabama veterans. ALA. CODE § 31-6-8 (2011) and 2014 Ala. Acts No. 2014-177 (amending ALA. CODE § 31-6-11) (statutes reference residency requirements for eligibility of benefits).

As noted earlier, the Education Trust Fund reimburses Alabama state institutions of higher learning, such as colleges, universities, or trade schools, for the benefits received by eligible participants of the Program. ALA. CODE § 31-6-15 (amended by 2014 Ala. Acts No. 2014-177). The participants are not obligated to pay “any tuition, fees, or books whatsoever.” 2014 Ala. Acts No. 2014-177. It stands to reason that the Legislature would not want the Education Trust Fund paying out-of-state rates for eligible participants in the Program because the ETF would bear the burden of paying the entire amount assessed for tuition, fees, and books. Thus, it is the opinion of this Office that the Legislature sought to clarify that applicants who are eligible to receive benefits under the Program are to be assessed in-state tuition only, and such benefits are now limited to undergraduate instruction.

Based on the response to Question One, your second question is moot.

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CONCLUSION

Eligible out-of-state participants under the Alabama G.I. Dependents Scholarships should be assessed in-state tuition and fees. Any tuition, fees, and books waived by an institution for an eligible student are to be paid for by the Alabama Education Trust Fund.

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

Sincerely,

LUTHER STRANGE
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

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