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ATTORNEY GENERAL OPINION NO. 90- 13

Ted D. Ayres
General Counsel
Kansas Board of Regents
Suite 609, Capitol Tower
400 S.W. Eighth Street
Topeka, Kansas 66603-3911

Re: State Boards, Commissions and Authorities--State
Board of Regents; Nursing Student Scholarship
Program--Number of Awards Available

Synopsis: The Board of Regents may not award more than 250
scholarships in any one year under the nursing
student scholarship program even if the number of
current recipients falls below 250 during the
year. However, awards which are not actually
accepted by applicants (because found not to
qualify, etc.) should not be considered completed
awards and thus do not count toward the 250 limit.
Cited herein: K.S.A. 1989 Supp. 74-3293; K.S.A.
76-377a.

* * *

Dear Mr. Ayres:

As General Counsel for the Kansas Board of Regents, you
request our opinion regarding the number of scholarships which
may be awarded annually under the nursing student scholarship
program. Your specific question is this:

"Does the following sentence from [K.S.A.
1989 Supp. 74-3293], i.e. 'The number of

scholarships awarded under the nursing student scholarship program in any year shall not exceed 250' require that only 250 individual scholarships be 'awarded' in any year, or does it permit up to 250 scholarships at any one time during any year."

You explain that as a result of graduation, dropping out, or other circumstances, the number of scholarships, while 250 at the beginning of the academic year, may fall short of that by the end of the first semester. Since money would still be available to fund 250 scholarships through the second semester, you question whether "new scholarships" may be awarded at the beginning of the second semester to bring the number of current recipients back up to 250. You note that the statutory language speaks in terms of awards rather than active scholarships, but you believe the legislative intent was to help as many individuals as possible to obtain nursing education and employment in Kansas.

K.S.A. 1989 Supp. 74-3293 provides in pertinent part:

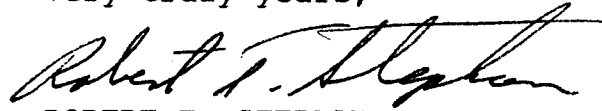
"(a) There is hereby established the nursing student scholarship program. . . . The number of scholarships awarded under the nursing student scholarship program in any year shall not exceed 250. Of this number, 100 scholarships shall be awarded to nursing students whose sponsors are located in rural areas and who are enrolled in a course of instruction leading to licensure as a registered professional nurse, 50 scholarships shall be awarded for nursing students enrolled in or admitted to a school of nursing operated by a community college, area vocational-technical school or area vocational school in a course of instruction leading to licensure as a licensed practical nurse and the remaining 100 scholarships shall be awarded to any nursing students who have a sponsor and who are enrolled in a course of instruction leading to licensure as a registered professional nurse. . . .

"(b) Scholarships awarded under the nursing student scholarship program shall be awarded for the length of the course of instruction leading to licensure as a licensed professional nurse or licensure as a licensed practical nurse in which the student is enrolled in or admitted to unless otherwise terminated before such period of time. Such scholarships shall provide to the nursing student receiving the scholarship the payment of tuition, fees, books, room and board in an amount to not exceed the total of \$3,500 annually. The amount of each scholarship shall be established annually by the executive officer and shall be financed equally by the sponsor of the nursing student and by the state of Kansas."
(Emphasis added).

Where statutory language is free from ambiguity, there is no room for judicial construction, and a court may not look beyond words used in order to reach some construction which would extend the meaning of the plain terms of the statute. In re Duel's Estate, 161 Kan. 593, 595 (1946). See also Boaldin v. University of Kansas, 242 Kan. 288, 291 (1987); U.S. v O'Brien, 686 F.2d 850, 852 (C.A. Kan. 1982). The statute in question clearly limits the number of awards to 250 per year. We do not believe it can be read to allow more than 250 awards in any one year. Further, even if we could look to legislative history to interpret the meaning of this language, we are unable to find any clear legislative intent to the contrary. The committee minutes are devoid of any discussion on this issue. Testimony of the Governor's office indicates that the nursing student scholarship program is patterned after the medical scholarship program. Minutes of the Senate Committee on Ways and Means, Feb. 22, 1989, attachment 4a. The medical scholarship program has a scholarship limit of 50 per year. K.S.A. 76-377a. We are told that no more than 50 scholarships are awarded to a class in any one year, though this may be due to limited appropriations for such purposes. In any event, we have found no evidence of legislative intent to allow more than the stated number of awards even if funds are available. It is therefore our opinion that the Board of Regents may not award more than 250 scholarships in any one year under the nursing student scholarship program even if the number of current recipients falls below 250 during the year. We note, however,

that awards which are not actually accepted by applicants (because found not to qualify, etc.) should not be considered completed awards and thus do not count toward the 250 limit.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm