



FILE
Subject Schools - Pupils
Tuition
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STATE OF KANSAS

Office of the Attorney General

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VERN MILLER
Attorney General

July 12, 1974

Opinion No. 74- 222

Charles V. Hamm
General Counsel
Legal Division
State Department of Social
and Rehabilitation Services
State Office Building
Topeka, Kansas 66612

Dear Mr. Hamm:

K.S.A. 72-4417 was amended by 1974 Senate Bill 958, found at ch. 298, L. 1974, to provide in pertinent part as follows:

"(a) Students admitted to a vocational education course or program which is conducted by the school district in which such student resides may be charged fees but shall not be charged tuition, unless such student is a post-secondary student.

(b) Students admitted to a vocational education course or program which is conducted by a community junior college shall pay tuition and fees as is provided by laws applicable to community junior colleges and the provisions of this section shall not apply thereto Other students admitted to a vocational education course or program which is not conducted by the school district in which such student resides shall be charged tuition and fees determined in accordance with subsection (d) of this section, subject however, to the following: (1) Such tuition or fees, or tuition and fees, except tuition for post-secondary students, may be paid for the student in accordance with any agreement made under K.S.A. 72-4421, or

(2) if tuition of such student is not paid under subpart (1) of this subsection, the tuition of such student shall be paid by the school district in which the student resides, except that no school district shall

pay tuition for such a student who is a post-secondary student, and except no school district shall be required to pay tuition or fees of a student who is eligible to have his tuition and fees for the course or training he selects paid by any state or federal agency from moneys, funds or appropriations from one or more manpower development and training programs, vocational rehabilitation programs or any other federal program. Any state agency administering any one or more such programs shall pay such tuition and fees upon proper application by such a student therefor.

* * *

(d) All tuition and fees charged for vocational education by any board shall be in such amounts as are authorized by rules and regulations adopted by the state board . . . , except that tuition of post-secondary students shall be fixed in accordance with section 4."

Thus, a student admitted to a vocational education course or program conducted by the school district in which he resides may be charged fees but not tuition, unless such student is a post-secondary student, in which case he may be charged both fees and tuition. If a student is admitted to a course or program which is not conducted by the district in which that student resides, he shall be charged tuition and fees fixed according to (d) above, which specifically provides that tuition of post-secondary students shall be fixed in accordance with section 4 of the bill, i.e., in an amount "equal to ten percent (10%) of the local cost per enrollment hour." The tuition and/or fees of any student attending a course or program not conducted by the school district in which he resides may be paid for the student by his home district in accordance with any agreement made pursuant to K.S.A. 74-4421, or alternatively, absent such an agreement, by the home district of the student on an individual basis, except that tuition for post-secondary students may not be paid for such students by the home district either under such an agreement, or on an individual basis.

Thus, as you state, tuition, as defined by section 4 of the act, shall now be charged to all post-secondary students whether they are in-district or out-district students. Thus, inasmuch as all of your vocational rehabilitation clients are post-secondary students, such persons remain liable for tuition, whether they are in-district or out-district students.

Under section 5(b)(2) quoted above, any state agency administering any one or more of the enumerated programs "shall pay such tuition and fees upon proper application by such a student there-

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for." Inasmuch as post-secondary students remain liable for tuition whether they are in-district or out-district students, the Vocational Rehabilitation Division of the State Department of Social and Rehabilitation Services is authorized to pay the tuition for such students.

We further agree with your view that the tuition properly chargeable to a post-secondary student, and hence that which shall be paid by the Division for a client student, is to be computed according to section 4 of ch. 298, L. 1974:

"The rate per hour of tuition for post-secondary students shall be fixed by each board subject to approval of the state board at the commencement of each school year for such school year. Such rate shall be an amount equal to ten percent (10%) of the local cost per enrollment hour." [Emphasis supplied.]

There is no basis whatever for the argument that if a client is admitted as a student to a vocational course or program, the Division is obliged to pay tuition for such student equal to one hundred percent of the local cost per enrollment hour. Tuition is precisely and clearly defined by section 4 of the act.

If you should have further questions concerning this matter, please feel free to call upon us.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm