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ATTORNEY GENERAL OPINION NO. 83- 110

Merle R. Bolton
Commissioner of Education
Kansas State Education Building
120 East Tenth Street
Topeka, Kansas 66612

Re: Municipal Universities -- State Aid to Washburn
University of Topeka -- Determination of Entitle-
ment; Credit Hour Determination

Synopsis: Students enrolled in any regular semester at
Washburn University of Topeka need not receive
18 hours of instruction per credit hour awarded
in order for the University to receive the muni-
cipal university funds allotted pursuant to K.S.A.
1982 Supp. 72-6503. Cited herein: K.S.A. 71-601,
72-6501, K.S.A. 1982 Supp. 72-6503, K.S.A. 72-6504,
76-711.

* * *

Dear Commissioner Bolton:

As Commissioner of Education, you have requested our opinion
on whether students enrolled in any regular semester or sum-
mer session at Washburn University of Topeka must receive 18
hours of instruction for each credit hour awarded in order
for the students' credit hours to be used as a basis for pay-
ment of state aid to the university under K.S.A. 1982 Supp.
72-6503.

K.S.A. 72-6501 provides in pertinent part that:

"(b) 'school term' means a university semes-
ter consisting of at least eighteen (18) weeks
beginning in August or September of any year
and ending in December of the same year, or
beginning in January or February of any year
and ending in May or June of the same year or

a summer session for which a student receives eighteen (18) hours of instruction for each credit hour"

Also, K.S.A. 1982 Supp. 72-6503 reads:

"(a) The basis for payments from the municipal university fund for each credit hour of each duly enrolled undergraduate student and each duly enrolled graduate student, except for graduate students who are enrolled in the school of law, shall be the amounts specified in this subsection:

"(1) Twenty-three dollars in the 1983 fiscal year.

"(2) Twenty-three dollars and fifty cents in the 1984 fiscal year and in fiscal years thereafter.

"(b) The basis for payments from the municipal university fund shall be \$26 for each credit hour of each graduate student who is duly enrolled in the school of law.

"(c) Payment from the municipal university fund shall be based only upon credit hours of duly enrolled students who are bona fide residents of the state of Kansas during the current school term. The determination of credit hours of duly enrolled students shall be made at the end of the fifth week of the regular spring and fall semesters and at the end of the equivalent period for summer sessions. The determination of credit hours of duly enrolled students for payments for short term courses shall be made at such times as are prescribed by the state board of education."

From reading the above statutes, it is unclear what standards are to be applied in determining how such state aid is to be given to Washburn University. We must turn to the legislative history of these statutes in order to determine the legislative intent. It is helpful, however, to first separate your question into two parts. The first part concerns the definition of credit hour; the second concerns the definition of school term.

As originally enacted in 1961, K.S.A. 72-6501 contained a specific definition for credit hour:

"(b) the term 'credit hour' shall mean one hour's instruction per week for eighteen (18) weeks or its equivalent in a given subject or course for the successful completion of which the undergraduate student who resides in this state is entitled to credit" [See L. 1961, Ch. 365, §1.]

In 1965, the legislature deleted the above subsection and replaced it with new subsections (b) and (c) as follows:

"(b) the term 'F-S credit hour' shall mean one semester hour's instruction in freshmen and sophomore level courses;

"(c) the term 'J-S credit hour' shall mean one semester hour's instruction in junior and senior level courses;" [See L. 1965, Ch. 416, §1.]

In reading the minutes of the House Ways and Means Committee for April 12, 1965, we note that the Committee emphasized the word "course" rather than the term "credit hour," and made the F-S and J-S distinction in order to assess a different monetary value per course level for funding purposes. However, in that subsections (b) and (c) of K.S.A. 72-6501 were deleted by the 1969 legislature [See L. 1969, Ch. 310, §38.], at present there is no definition given of credit hour. It is therefore arguable that the legislature, by starting out with a specific definition and subsequently deleting the same, intended to give Washburn University of Topeka control over its credit hour structure.

This position is further strengthened when K.S.A. 72-6501 is read in pari materia with K.S.A. 72-6504, which states in part:

". . . the president and treasurer of the university [Washburn University of Topeka] shall certify under oath to the state board the total number of duly enrolled credit hours of students of the university during the current school term who meet the state residence requirements." (Emphasis added.)

We can therefore discern from these two statutes that the legislature desired to provide flexibility to the university in establishing its credit hour curriculum. We also note that no definition is given for credit hour under K.S.A. 76-711 et seq., or the regulations of the Board of Regents. However, a credit hour definition does exist for community colleges pursuant to K.S.A. 71-601.

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As noted above, the phrase "school term" is defined in K.S.A. 72-6501 in a way which draws a distinction between courses offered in a term during the fall or spring, which need be only eighteen weeks long, and those offered during the summer session, in which 18 hours of instruction are needed to constitute one credit hour. Although the statute at present makes this interpretation less than perfectly clear, in our opinion this is due to a clerical error rather than by express action on the part of the legislature. We refer to the fact that the subsection as originally enacted in 1961 [ch. 365, §1(d)], contained a comma between the definition of the regular terms and the phrase "or a summer session for which a student receives eighteen (18) hours of instruction per credit hour." This comma, which makes the disjunctive effect of the statute obvious, was inadvertently left out following the 1972 amendments which changed the beginning and ending months for the 18 week-long regular semesters. Accordingly, only courses in the summer session carry a requirement that a specific number of hours of instruction be offered for each credit hour which is awarded.

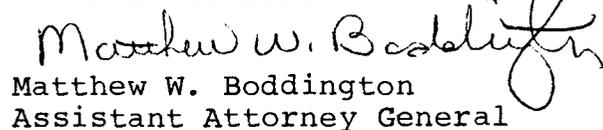
Consequently, two standards have been created: one for regular school semesters and one for summer sessions. While there is no information available as to the basis for the two standards, it is reasonable to assume that the legislature wanted to provide Washburn University with some discretion as to the length of summer sessions. We also are informed that the Department of Education has interpreted and treated the credit hour determination as not requiring 18 hours of instruction during regular school semesters. That agency's interpretation of the statute which oversees the distribution of state aid to Washburn University of Topeka, is entitled to great weight under Kansas law. See e.g. State v. Helgersen, 212 Kan. 412 511 P.2d 221 (1973). We agree with that interpretation.

In conclusion, there is no statute which specifically provides that, as to regular school semesters, a student must receive 18 hours of instruction for each credit hour granted in order for the university to receive the appropriate state aid funding per credit hour. Students enrolled in summer sessions, however, are required to meet the 18 hours of instruction per credit-hour provision prescribed in K.S.A. 72-6501.

Very truly yours,


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ATTORNEY GENERAL OF KANSAS


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RTS:BJS:MWB:hle