

OPINION NO. 70-147

Syllabus:

The Ohio student loan commission is not prohibited from guaranteeing unsubsidized loans to eligible students who are admitted or readmitted to eligible institutions of education under strict disciplinary probation.

To: David H. Shawan, Chairman, Ohio Student Loan Commission, Columbus, Ohio

By: Paul W. Brown, Attorney General, October 30, 1970

I have before me your request for my opinion on the following question:

Is the Ohio student loan commission prohibited from guaranteeing unsubsidized loans for students who are admitted or readmitted to an eligible educational institution under strict disciplinary probation?

Provisions for the creation of the Ohio student loan commission appear in Section 3351.05, Revised Code, in which it is stated that the commission's purpose shall be to make available to residents of this state improved opportunities for education and to improve the general health and welfare by raising the educational levels of such residents by guaranteeing loans made to persons who are attending or planning to attend eligible institutions of education, when such loans are made to assist such persons in meeting their expenses of education. * * *

To achieve this purpose the legislature established certain eligibility requirements for students who wish to obtain student assistance and loan guarantees by the commission. Section 3351.08, Revised Code, provides that:

"(A) A person may be eligible for a loan guaranteed by the commission if:

"(1) He is a resident of Ohio.

"(2) He is determined by the commission, in accordance with the academic status established by the commission, to be eligible for a guaranteed loan to pursue a course of study at an eligible institution.

"(3) He is enrolled or has been accepted for enrollment at an eligible institution of his choice which is approved by the commission.

"* * * * *
(Emphasis added)

In prescribing the powers and duties of the commission, the legislature enacted Section 3351.07, Revised Code, which reads in part as follows:

"* * * * *

"(B) The Ohio student loan commission, * * * shall:

"(1) Prescribe the academic status required to obtain guarantee of a loan:

"* * * * *

A proper construction of Sections 3351.07 and 3351.08, Revised Code, requires the consideration of the expressed intent of the legislature. If the legislature deemed disciplinary status to be of importance in regard to student eligibility for obtaining unsubsidized loan guarantees by the Ohio student loan commission, such status would have been specifically provided for in Section 3351.08, supra. Instead, the legislature entrusted the status of such students to the discretion of the Ohio student loan commission. It is my understanding that the Ohio student loan commission has exercised its discretion in defining academic status as a certain minimum grade-point average to be maintained by students who apply for said loan guarantees. In the absence of any requirement of a proper standard of student conduct, I would conclude that disciplinary status is not relevant in the determination of a student's eligibility for an unsubsidized loan guarantee by the Ohio student loan commission.

However, it is significant that recently enacted Sections 2923.61 and 3345.22 to 3345.26, supra, pertaining to control of campus disorders have a bearing upon the eligibility requirements for obtaining an unsubsidized student loan guarantee.

In applying the principle of "in pari materia" to the above mentioned sections of the Revised Code, the complementary spirit of these sections becomes evident.

The particular language under consideration is contained in Section 3345.23, Revised Code, which provides:

"(C) No degree or honors shall be conferred upon, no instructional credit or grades shall be given to, and no student assistance, scholarship funds, salaries, or wages shall be paid or credited to any student, faculty or staff member, or employee, in respect of the period such person is properly under dismissal pursuant to this section or under suspension pursuant to section 3345.22 of the Revised Code."
(Emphasis added)

While Sections 3345.22 and 3345.23, supra, apply to eligible

state and state-supported educational institutions, the plain meaning of these sections indicates a legislative intent that student assistance shall be denied to students under dismissal or under suspension. These sections, however, make no reference to students who are enrolled in school while their trials for alleged offenses under Sections 2923.61 and 3345.22 to 3345.26, supra, are pending.

The principle of "expressio unius est exclusio alterius" is applicable here to indicate that the legislature's omission of language providing for the inclusion of students admitted or re-admitted to school on disciplinary probation in Sections 2923.61, and 3345.22 to 3345.26, supra, is sufficient to conclude that said sections of the Revised Code were not intended to include disciplinary probation status. Since Section 3345.23 (C), supra, is free from ambiguity, a literal construction of the statute reveals that students who are not under suspension or dismissal, and who fulfill the eligibility requirements of Section 3351.08, supra, may not be denied an unsubsidized loan guarantee by the commission solely because of disciplinary probation.

Since unsubsidized loans do not involve federal monies, federal legislation, which would otherwise require a favorable status of conduct for students who apply for loans under the Higher Education Act of 1965, is not relevant in the determination of the eligibility of students who apply for loans backed by strictly Ohio funds. (See Title v. Section 504, U.S.C. P.L. 90-575, enacted October 16, 1966).

It is my opinion and you are hereby advised that the Ohio student loan commission is not prohibited from guaranteeing unsubsidized loans to eligible students who are admitted or re-admitted to eligible institutions of education under strict disciplinary probation.