

1749

EDUCATION—COLLEGE OR UNIVERSITY, SUPPORTED IN WHOLE OR IN PART FROM STATE FUNDS—ADMISSIONS—REQUIREMENTS AS TO UNITS OF CREDIT; CONDITIONAL, UNCONDITIONAL ADMISSION—§3345.06 R.C.—SUCH REQUIREMENT MUST BE PRESCRIBED BY FACULTY AT LEAST TWO YEARS IN ADVANCE

SYLLABUS:

Under the provisions of Section 3345.06, Revised Code, the faculty of a college or university supported wholly or in part by the state, may prescribe, for the unconditional admission of high school graduates, a requirement that certain units of study shall have been completed in high school, and may prescribe, as to other students, admission conditioned upon the satisfactory completion in such college or university of such of the units of study so prescribed as the student may lack; but no such rule may be applied to any student unless it has been prescribed by the faculty at least two years in advance of his enrollment in such college or university.

Columbus, Ohio, February 21, 1958

Hon. George E. Bowman, President
Kent State University, Kent, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“This inquiry is written with the knowledge and authorization of President George E. Bowman of Kent State University. I presume you might classify it as a request for an informal opinion.

“As you know, the state universities of Ohio are required by law to admit all Ohio high school graduates. At the time I served as Chairman of the Teacher Education and Teacher Personnel Section of The Ohio School Survey, authorized by the One hundredth General Assembly, the School Survey Committee hoped that that section of law which stated that the directive referred to above did not apply to such specialized schools as schools of medicine, etc., could be considered as embracing the schools or colleges of education within the state universities, making it possible for them to establish reasonable cut points for admission. At that time, however, an informal opinion from the Office of the Attorney General, held that they could not be con-

sidered as specialized schools within the meaning of those words of the Act.

“To some extent the present question is related to that. Certain of our faculty groups are now proposing that we make every effort to see that the high school programs of study pursued by persons seeking admission to Kent State University include certain subjects. Specifically, we are quite anxious that our Freshmen students will have taken four units of English, three units of Science, including two units of laboratory science, and two units each of Mathematics, Foreign Language and History or Government in their high school programs. Would it be possible for us to announce an admission policy which would require that those subjects in the amount of units named for each be shown on high school transcript as a prerequisite for unqualified admission and that such deficiencies as there were would have to be made up in non-credit courses taken at the University? As an alternative, would it be possible to state our degree requirements with the proviso that these requirements would be added to in proportion to the extent to which the hoped for pattern of high school subjects was not met? For example, since our present baccalaureate degree requirements consist of 192 quarter hours of credit covering certain patterns of course distribution, we would rule that a student who had had but one year of a laboratory science in high school would have ten quarter hours of work in a laboratory science added to our usual degree requirements.”

Kent State University was originally organized as a normal school under the provisions of House Bill No. 44, 78th General Assembly (1910). Section 4 of that act reads in part as follows:

“* * * The boards of trustees in connection with the presidents of the normal schools shall select and appoint an able and efficient corps of instructors for the said schools, provide a suitable course of study for the theoretical and practical training of students who desire to prepare themselves for the work of teaching, fix rates of tuition and provide proper equipment. * * *”

In 1943, by the enactment of House Bill No. 217, 95th General Assembly, this institution was given the designation of Kent State University, and its powers expanded by the enactment of Section 4860-7, General Code. This section is now codified as Section 3341.05, Revised Code, in the following language:

“The boards of trustees of Bowling Green state university and Kent state university, respectively, may create, establish, provide for, and maintain a college of liberal arts and a college

of business administration, and include the usual technical or graduate instruction for the degree of master of arts.

“On the recommendation of the faculty, the board may confer such honorary degrees as are customarily conferred by colleges of liberal arts in the United States.”

The general power of university and college authorities to prescribe rules and regulations governing scholastic and disciplinary matters is discussed in 40 Ohio Jurisprudence, 750, 751, as follows:

“University and college authorities may make all necessary and proper rules and regulations for the orderly management of the institution and the preservation of discipline therein. Any rules and regulations formulated for the government of a university must, however, be reasonable and not arbitrarily applied, and must be consistent with both the state and Federal law. Since the college officials stand in loco parentis concerning the physical and moral welfare and training of the pupils, to that end they may make any rule or regulation for the government or betterment of their pupils that a parent could make for the same purpose. *The term ‘government,’ as applied to a university or college, is broad enough in its scope to include administrative rules and regulations affecting scholastic procedure, as well as disciplinary measures affecting only moral conduct or order.* It has, however, been found impracticable in most colleges, and contrary to the best good of the pupils, to lay down any great number of rules with a penalty attached to the violation of each; it is, therefore, the custom and rule to leave the students in such institutions to act according to their own knowledge of right and wrong and the instructions of the teachers in such matters as given from time to time.

“Whether the rules or regulations laid down are wise or their aims worthy is a matter left solely to the discretion of the authorities, in the exercise of which the courts are not disposed to interfere unless the rules and aims are unlawful or against public policy.” (Emphasis added)

The language I have emphasized in the foregoing passage is based on the decision in *West v. Miami University*, 41 Ohio App., 367. The headnotes in that case read in part:

“* * * 2. Term ‘government’ in act vesting government of university in trustees held to include administrative rules and regulations affecting scholastic procedure, as well as disciplinary measures (Section 7939, General Code).

“3. Rules and regulations, promulgated by university faculty under statutory authority, are binding on all concerned,

unless unreasonable, arbitrarily applied, or unlawful (7 Ohio Laws, 184, Section 8). * * *

Although the act of 1910, *supra*, does not refer to the "government" of Kent State being reposed in the board of trustees of the institution for which provision is therein made, I do not hesitate to conclude that the government of the institution is actually vested in such trustees as fully as was found to be the case in *West v. Miami University, supra*. Specifically, I conclude that the following observation by Ross, P.J., in the *Miami University* case, p. 381, is applicable here as well:

"* * * Obviously such rules and regulations are subject to the limitations that they must be reasonable and not arbitrarily applied, and shall not conflict with the law of the state, or United States. *Otherwise, they are binding upon all concerned.* * * *" (Emphasis added)

It is not, however, solely the trustees of the university who enjoy authority to prescribe scholastic rules and regulations. On this point Section 3345.06, Revised Code, relative to entrance requirements of state supported colleges and universities provides:

"A graduate of the twelfth grade shall be entitled to admission without examination to any college or university which is supported wholly or in part by the state, but for unconditional admission may be required to complete such units not included in his high school course as may be prescribed, not less than two years prior to his entrance, *by the faculty* of the institution.

"This section does not deny the right of a college of law, medicine, or other specialized education to require college training for admission, or the right of a department of music or other art to require particular preliminary training or talent." (Emphasis added)

Referring to your first question, it is quite plain that although Section 3345.06, Revised Code, requires that all twelfth grade graduates be admitted, it nevertheless authorizes your institution to prescribe, by reasonable rules, a requirement of minimum scholastic achievement "for unconditional admission." Those who do not meet such minimum requirement are clearly intended to be admitted conditionally. This condition is that the student "be required to complete such units not included in his high school course as may be prescribed * * * by the faculty * * *." This language indicates that the completion of these "prescribed" courses is to be accomplished in the college or university concerned, and that such completion is in

addition to the usual requirements for a degree in the case of students who are unconditionally admitted. Your first question is thus answered in the affirmative.

Your second query raises no question essentially different from that which we have just considered. Certainly it cannot matter much to a student whether he is required (1) to complete these high school units on a non-credit basis in addition to meeting the requirements for a degree in the case of students admitted without conditions, or (2) to complete, on a credit basis, a college curriculum in which such high school units are included. In each instance, there is a condition, and it is the same in each case; for if the student is required to accomplish extra work as a condition of attaining a degree he will certainly be "credited" with such work, if it be successfully accomplished, in the sense of meeting one of his degree requirements.

It is important to note, however, that any faculty rule of this sort cannot be applied to any student unless it shall have prescribed "not less than two years prior to his entrance," and it appears to be the legislative purpose to afford a prospective student this period of time in which to avoid a deficiency of prescribed units in his high school course.

In specific answer to your query, therefore, it is my opinion that under the provisions of Section 3345.06, Revised Code, the faculty of a college or university supported wholly or in part by the state, may prescribe, for the unconditional admission of high school graduates, a requirement that certain units of study shall have been completed in high school, and may prescribe, as to other students, admission conditioned upon the satisfactory completion in such college or university of such of the units of study so prescribed as the student may lack; but no such rule may be applied to any student unless it has been prescribed by the faculty at least two years in advance of his enrollment in such college or university.

Respectfully,

WILLIAM SAXBE

Attorney General