S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

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Opinion No. 08-34

Opinion ─ TELS ─ Eligibility Exception

QUESTIONS

1. May postsecondary institutions and/or the Tennessee Student Assistance Corporation allow exceptions to the Tennessee Education Lottery Scholarship award grade point average requirement based on extenuating personal or medical circumstances under current law and rules?

2. If not, does the Tennessee Student Assistance Corporation have authority to change the rule provision in paragraph (3) of Rule 1640-1-19-.26 to specifically allow exceptions to the Tennessee Education Lottery Scholarship award grade point average requirement based on extenuating personal or medical circumstances?

OPINIONS

1. No. The current statute and TSAC rules do not permit such an exception.

2. No. The current statute does not accord TSAC the authority to adopt a rule allowing an eligibility exception from the grade point average requirements for extenuating personal or medical circumstances.

ANALYSIS

1. The Tennessee Student Assistance Corporation is requesting these opinions because it has encountered incidents of students whose grade point average has fallen below scholarship requirements because of extenuating personal or medical circumstances.

The Tennessee Education Lottery Scholarship program (hereinafter referred to as "the lottery scholarship program") creates various scholarship awards for the purposes of postsecondary education through the use of state lottery proceeds. *See* Tenn. Code Ann. §§ 49-4-901 *et seq.* The lottery scholarship program also creates certain eligibility requirements for the various types of scholarships. The lottery scholarship program establishes grade point average

requirements for most of the available scholarships created by the legislation.[1] None of the scholarships created by Tennessee statutory law permits an eligibility exception from the grade point average requirements for extenuating personal or medical circumstances.

The lottery scholarship program provides for the administration of state lottery proceeds by TSAC. *See* Tenn. Code Ann. §§ 49-4-903 and 49-4-924. TSAC's administrative duties include "determination of eligibility of students." *See* Tenn. Code Ann. § 49-4-903. TSAC promulgated a set of rules governing the lottery scholarship program; these rules are contained in Chapter 1640-1-19 of Tennessee State Rules and Regulations. As in the statutory scheme, there is no eligibility exception to the grade point average requirement contained in the TSAC rules.

2. TSAC does not have the authority to allow an eligibility exception from the grade point average requirements for extenuating personal or medical circumstances because the statutory scheme does not provide it with the authority. TSAC does have authority to "promulgate rules and regulations . . . to otherwise effectuate the purposes of this part." Tenn. Code Ann. § 49-4-924. However, TSAC cannot create an eligibility exception without statutory authority.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

MELISSA A. MOREAU
Assistant Attorney General

[1] It should be noted that some of the available scholarships require a particular grade point average or a certain minimum ACT or SAT score for eligibility purposes.

Requested by:

The Honorable Robert Ruble
Executive Director
Tennessee Student Assistance Corporation
404 James Robertson Parkway
Suite 1510 Parkway Towers
Nashville, TN 37243-0820