

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**July 14, 2015**

**Opinion No. 15-57**

**Tenn. Code Ann. § 49-50-1306, Tennessee Foreign Language Institute Employees**

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**Question**

Does the statement in Tenn. Code Ann. § 49-50-1306 that the Tennessee Foreign Language Institute (“TFLI”) “shall be attached to the state board of regents for administrative purposes,” mean that TFLI employees should be classified as employees of the Tennessee Board of Regents (“TBR”) rather than of the State of Tennessee for purposes of participation in a sick leave bank, retirement, accrual of annual leave, and observation of holidays?

**Opinion**

The phrase “attached to the board of regents for administrative purposes” did not change the classification status of TFLI employees when it was added as an amendment to Tenn. Code Ann. § 49-50-1306, nor did it impact TFLI leave, benefits, or holidays. TFLI employees should be classified as employees of the State of Tennessee, and not as TBR employees.

**ANALYSIS**

The Tennessee Foreign Language Institute was established pursuant to Tennessee Code Annotated § 49-50-1301. The TFLI is governed by a board composed of members designated by statute.<sup>1</sup> The board is responsible for hiring an executive director for the TFLI, and the TFLI is directed to “hire other staff approved by the board.” Tenn. Code Ann. § 49-50-1304. Tennessee Code Annotated § 49-50-1305 created an endowment fund within the state treasury and provides that income from the endowment “shall be used for the operation and maintenance of the institute.” Tenn. Code Ann. § 49-50-1305(c). The endowment can be funded by private contributions that are matched by the state on a dollar-for-dollar basis “subject to the general appropriations act.” Tenn. Code. Ann. § 49-50-1305(d).

Tennessee Code Annotated § 49-50-1306(b) provides that “[t]he institute shall be attached to the board of regents for administrative purposes.” This “attachment amendment” was added to the TFLI statute in 1990. 1990 Tenn. Pub. Acts, ch. 1014. It is a one-sentence amendment with no additional language provided for context or meaning. The opinion request inquires about the impact of the attachment provision as it relates to employee classification.

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<sup>1</sup> Those members include the executive director of the Tennessee Higher Education Commission, the commissioner of Economic and Community Development, three individuals appointed by the governor, and several other state officials. Tenn. Code. Ann. § 49-50-1303.

The term “administrative” is not defined in the attachment amendment, nor is there an applicable definition section. “The most basic principle of statutory construction is to ascertain and give effect to the legislative intent without unduly restricting or expanding a statute’s coverage beyond its intended scope.” *Owens v. State*, 908 S.W.2d 923, 926 (Tenn. 1995). When the text of a statute contains an undefined term, that term receives its ordinary and natural meaning.<sup>2</sup> *The Limited, Inc. v. Comm’r*, 286 F.3d 324, 332 (6th Cir. 2002) (citing *Fed. Deposit Ins. Corp. v. Meyer*, 510 U.S. 471, 476 (1994)). “Administrative” is commonly and ordinarily understood to mean “of or relating to administration,” and “administration” is synonymous with “management.” Merriam Webster’s Collegiate Dictionary, 10th ed. Thus, the ordinary meaning of the phrase “for administrative purposes” is for purposes of the process of managing or supervising. *See id.* So when the phrase is used in the attachment amendment, it means that the TFLI is to be managed and supervised as part of the TBR. It does not, however, change the employment status of the TFLI employees.<sup>3</sup>

There are many statutes in the Tennessee Code that attach one entity to another for administrative purposes. For example, Tennessee Code Annotated § 9-8-102 attaches the Board of Claims to the Department of the Treasury “[f]or the purpose of administration, *including fiscal and personnel operations.*” Tenn. Code Ann. § 9-8-102(a) (emphasis added). Here, the legislature clearly intended to encompass fiscal and personnel matters within the scope of the Department’s “administration” of the Board of Claims. The TFLI statute, in contrast, does not specify fiscal and personnel operations. Further, it does not reference employee classification, nor does it specify a change relative to TFLI employee benefits, leave, or holidays. If the legislature had intended to impact TFLI personnel policies, it could have done so expressly as it did for the Board of Claims. *See Amos v. Metro. Gov’t of Nashville & Davidson Cnty.*, 259 S.W.3d 705 (Tenn. 2008) (applying the principle of *expressio unius est exclusio alterius* – to express one thing is to exclude others – and holding that if the Metropolitan Council had intended for accrued vacation to be treated in a similar manner as sick leave, it would have expressed that intent explicitly).

For these reasons, this Office concludes that the language of the attachment amendment did not change the status of TFLI employees from State of Tennessee employees to TBR employees. TFLI employees should be classified as State of Tennessee employees for the purposes of benefits, leave, and holidays. This Office cannot opine as to the specific benefits TFLI employees may be eligible to receive because each employee may be eligible for different benefits

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<sup>2</sup> Courts may also look to legislative history to interpret a statute if the language is unclear. *See Palmer v. United States*, 219 F.3d 580, 584 (6th Cir. 2000); *Hoffman v. Comshare, Inc.*, 183 F.3d 542, 549 (6th Cir. 1999); *Vergos v. Gregg's Enters., Inc.*, 159 F.3d 989, 990 (6th Cir. 1998); *United States v. Mills*, 140 F.3d 630, 633 (6th Cir. 1998) (“Only when the language of the legislation is unclear should we look beyond the wording of the statute to the intent of the legislature.”). Here, a review of audiotapes from legislative discussions for the amendment provides no insight into the purpose of the amendment or the meaning of the word “administrative.”

<sup>3</sup> It appears that TBR and TFLI officials (in leadership when the amendment passed) reached the same conclusion and executed an apparent management contract providing that the TBR would perform certain administrative functions for the TFLI (such as payroll, financial reporting, and monetary disbursements) and also providing that TFLI employees would “not become employees of the Tennessee Board of Regents, but as of July 1, 1990, will continue as employees of the State of Tennessee in the same status as previously accorded them and will be entitled to all of the benefits provided to the TFLI employees on June 30, 1990, and to any modifications or changes in such benefits programs which occur in the future.”

depending on his or her particular terms of employment or employment status (e.g., part-time, full-time, hourly, salaried, etc.).

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