

1974 WL 28012 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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*1 Executive Director

Commission on Higher Education

1. The term 'not available' is not synonymous with the term 'not offered.'
2. Only when a degree program is 'not available,' *i.e.*, 'not at hand' may the Commission on Higher Education provide financial assistance to certain students.
3. A resident who attends an out-of-state institution in a particular degree program because she was not admitted to an in-state institution offering an identical program is not entitled to receive financial assistance absent an express statute authorizing such assistance.

The current appropriations act [*see* 58 STAT. Act No. 1136 Part I § 14 at 2446 (1974)] contains the following provision: That the amount appropriated in Item II of this section for Regional Education Board . . . may be used by the Commission [on Higher Education] for paying the actual difference between State and out-of-State tuition fees for non-contract students for degree programs or curricula not available in a public institution in South Carolina. Notwithstanding the provision outlined, students at accredited schools of medicine shall be eligible for such grants. [Emphasis ours.] *Id.* at 2447.

You have requested that we advise you as to our interpretation of the term 'not available.' The Commission on Higher Education, we are told, has interpreted the term to mean 'not offered.'

Where the terms of a statute have not been defined, the terms are to be given their ordinary and accepted meaning. The statute which we have been asked to construe does not define the term 'not available.' The commonly accepted definition of the word 'available' is that it means 'suitable or ready for use;' or 'at hand.' AMERICAN COLLEGE DICTIONARY at 85. The word 'offered,' however, means 'to present for acceptance or rejection.' *Id.* at 841. When a degree program or curricula is 'not available,' therefore, the program or curricula is 'not ready for use' or 'at hand.' In our view, a degree program or curricula may be 'available,' that is, 'ready for use' or 'at hand,' but may not be 'offered,' that is, 'presented for acceptance or rejection.' The term 'not offered,' then, is not synonymous with the term 'not available.'

Only when a degree program is 'not available,' therefore, is the Commission authorized to provide financial assistance to South Carolina residents pursuing degree programs in out-of-state institutions.

You further inquire as to whether or not a resident who attends an out-of-state institution in a particular degree program because she was not admitted to an in-state institution which offers an identical program is entitled to receive a grant. We think not, absent an express exception. As we mentioned above, a degree program may be 'available' but may not be 'offered.' In this case a degree program is 'at hand' in a public institution in South Carolina but it has not been 'presented' to the person for her acceptance or rejection. Unless she is attending an accredited out-of-state medical school, she is not eligible to receive financial assistance.

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