

1969 O. A. G.

OFFICIAL OPINION NO. 2

April 28, 1969

Mr. Claude I. Hughes  
Executive Secretary  
State Scholarship Commission  
514 State Office Building  
Indianapolis, Indiana 46204

Dear Mr. Hughes:

You have requested an Official Opinion in letters of March 12 and April 23, 1969, as finally stated in the following question:

“Must the [State Scholarship] Commission grant two monetary awards each year in each of the 92 counties in the State of Indiana?”

In substance the answer is yes. The State Scholarship Commission must grant two monetary awards each year in each of the 92 counties in the State of Indiana, *provided* there are two qualified applicants in each of said counties. Obviously, if there is only one qualified applicant in a given county in a given year, then there is only one award in said county in said year; or if there are no qualified applicants in a given county in a given year, then there would be no award in said county in said year.

The State Scholarship Commission and the scholarship program it administers were established by the Indiana Scholarship Act, the same being Acts of 1965, Ch. 157, as found in Burns' (1968 Supp.), Sections 28-5755 through 28-5766. That Act is designed to enable Indiana residents to obtain a college education by providing financial assistance to those persons who are otherwise qualified but who would be unable to attend college without such assistance.

Section 7 of the Act, Burns' Section 28-5761, describes the pattern for the distribution of scholarships. The first subsection of that section provides:

“(a) For each academic year, first-year scholarships shall be awarded to (1) two [2] qualified residents of each county, and (2) as many additional qualified persons, without regard to county, as the

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then current biennial appropriation for first-year scholarships allows. In determining the additional number of scholarships to be so offered, the commission shall consider past experience with the rate of acceptance of first-year scholarships. If it underestimates that rate, it may to that extent exceed the annual budget allocation, and pay for the excess out of the funds unclaimed by renewal of first-year winners who would otherwise be entitled to financial support under this act. However, the commission may not award a scholarship to any applicant who fails to meet the conditions of eligibility prescribed by or under this act, even if an available scholarship remains unawarded. An award may be made and announced before the beginning of the fiscal year in which the academic year for which award is made begins.”

The remaining subsections of this section provide for the subsequent renewal of the scholarships awarded to first-year scholarship recipients and for the awarding of scholarships to students who have completed at least one year of college (but only if funds are still available after the maximum possible number of first-year scholarships and renewal scholarships have been awarded), and establishes \$800.00 as the maximum amount of any scholarship.

The third section of the Act, Burns’ Section 28-5757, contains the following definition:

“(8) ‘scholarship’ means a monetary award.”

Thus the portion of section 7 set out above would appear to require the granting of at least two monetary awards to each county annually. Subsection (b) of that section, not set out above, which provides for automatic renewal of a scholarship provided the recipient remains qualified, could cause the minimum number of monetary awards to be granted a county in a given year to be as many as eight.

That the Legislature specifically intended that at least two first-year scholarships should be awarded to residents of each county is demonstrated by section 6 of the Act, Burns’ Section 28-5760, which provides:

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“SEC. 6. (a) An applicant is eligible for a first-year scholarship under this act, if:

“(1) he is a citizen of the United States and is domiciled in the state for the six-month period immediately preceding the first academic year of the award;

“(2) he has not passed his 24th birthday before the first day of that academic year;

“(3) he is a person of good moral character;

“(4) he has successfully completed the program of instruction at an approved secondary school within six (6) academic years before the first academic year of the award or is a student in good standing at such a school and is engaged in a program that in due course will be completed by the end of the current academic year;

“(5) the financial resources reasonably available to him (including those available through employment or loan) are such that, in the absence of a scholarship under this act, he would be deterred from completing his education at the approved institution of higher learning that he has selected and that has accepted him;

“(6) he will use the scholarship initially at that institution; and

“(7) he has superior capacity to profit by a higher education.

“(b) In determining an applicant’s capacity to profit by a higher education, the commission shall consider his scholastic record in secondary school and the results of the examination conducted under this act, giving them such relative weight as it considers appropriate. Subject to section 7 (a), the available scholarships shall be awarded to applicants in descending order of merit.

“(c) No scholarship applicant is eligible for scholarship assistance after he has enrolled, full-time or part-

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time, for a total of eight (8) semesters, or twelve (12) quarters, of post-secondary school education.”

Subsection (b) of the above statute clearly indicates that the required granting of two first-year scholarships to qualified residents of each county is not to depend on the relative academic qualifications of the applicants of other counties.