



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

April 2, 2024

John T. Lamar, Jr., Esq.
Attorney, Board of Trustees
Northwest Mississippi Community College
214 South Ward Street
Senatobia, Mississippi 38668

Re: In-State Community College Tuition for Out-of-State Residents

Dear Mr. Lamar:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. Per Mississippi Code Annotated Section 37-103-25, or any other state law, may Northwest Mississippi Community College offer in-state tuition to out-of-state residents who enter its nursing program?
2. If so, what requirements and parameters would there be for the out-of-state tuition waiver?

Brief Response

1. Generally speaking, the total tuition for out-of-state residents attending Mississippi community colleges “shall not be less than the average cost per student from appropriated funds.” Miss. Code Ann. § 37-103-25(2). However, Section 37-103-25(4) sets forth when a community college board of trustees may implement a policy waiving out-of-state tuition. Whether a proposed policy fits within Section 37-103-25(4)’s statutory requirements is a determination to be made by the governing authorities of the community college.
2. Pursuant to Section 37-103-25(4), “[t]he board of trustees of any community college or junior college may develop and implement a policy for waiving out-of-state tuition for the college if the policy is determined by the board to be in accordance with the educational mission of the college and if a local industry or business or a state agency agrees to reimburse the college for the entire amount of the out-of-state tuition that will be waived under the policy.”

Applicable Law and Discussion

Section 37-103-25 allows Mississippi community college boards of trustees to prescribe, with certain limitations, the tuition to be paid by students attending the college. Pursuant to Section 37-103-25(2):

Except as otherwise provided in this subsection and subsections (3) and (4) of this section, the total tuition to be paid by residents of other states shall not be less than the average cost per student from appropriated funds. However, the tuition to be paid by a resident of another state shall be equal to the [in-state] tuition amount established under subsection (1) of this section if:

(a) The nonresident student is either a veteran, as defined by Title 38 of the United States Code, or a person entitled to education benefits under Title 38 of the United States Code.

...

(c) The nonresident student's out-of-state tuition was waived according to subsection (3) or (4) of this section.

Subsection (3) only applies to institutions of higher learning; however, subsection (4) provides:

The board of trustees of any community college or junior college may develop and implement a policy for waiving out-of-state tuition for the college if the policy is determined by the board to be in accordance with the educational mission of the college *and* if a local industry or business or a state agency agrees to reimburse the college for the entire amount of the out-of-state tuition that will be waived under the policy. State funds shall be allocated and spent only on students who reside within the State of Mississippi. However, associate degree nursing students who reside outside the State of Mississippi may be counted for pay purposes.

Miss. Code Ann. § 37-103-25(4) (emphasis added). Accordingly, to have a policy waiving out-of-state tuition, (1) a community college board of trustees must determine such policy is in accordance with the educational mission of the college, and (2) a local industry or business or a state agency must agree to reimburse the college for the waived amount. Subsection (4)'s reference to "nursing students who reside outside the State of Mississippi" relates to the annual full-time equivalency funding formula for community colleges. *See* 2023 S.B. 3010, § 4 ("[F]unds . . . shall be disbursed on the basis of prior year full-time equivalency (FTE) of hours generated . . . counting only students who reside within the State of Mississippi. However, associate degree nursing students who reside outside of the State of Mississippi may be counted for pay purposes.").

In summary, it is the opinion of this office that a community college may only offer out-of-state residents in-state tuition when meeting the requirements set forth in Section 37-103-25(4). Whether a proposed policy fits within Section 37-103-25(4)'s statutory requirements is a determination to be made by the governing authorities of the community college.

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If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General

OFFICIAL OPINION