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**OFFICE OF THE**  
**ATTORNEY GENERAL**  
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September 18, 2006

Opinion No. 06-141

Interpretation of the 2006 Amendments to Tenn. Code Ann. § 49-4-933(f)

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**QUESTION**

Are the phrases "all available financial aid" and "all other student financial assistance from all sources" in the recent amendments to Tenn. Code Ann. §§ 49-4-933(f)(1) and (f)(2) reasonably interpreted to include grants, scholarships, loans, and work-study financial aid awards?

**OPINION**

Yes. The phrases "all available financial aid" and "all other student financial assistance from all sources" in the recent amendments to Tenn. Code Ann. §§ 49-4-933(f)(1) and (f)(2) are reasonably interpreted to include grants, scholarships, loans, and work-study financial aid awards.

**ANALYSIS**

In 2005, the General Assembly created a Tennessee HOPE foster child tuition grant for certain children who were in the State's foster care system for at least one year. Tenn. Code Ann. § 49-4-933(a). At a minimum, the statute requires that the recipient meet the academic requirements for a Tennessee HOPE<sup>P1</sup> or a Tennessee HOPE access<sup>2</sup> Tenn. Code Ann. § 49-4-933(a)(3). The General Assembly recently amended Tenn. Code Ann. § 49-4-933(f), modifying the nature of the HOPE foster child tuition grant and further specifying the manner in which it must be calculated. *See 2006 Tenn. Pub. Acts ch. 869, § 2. The amended section now provides as follows:*

(1) Before a Tennessee HOPE foster child tuition grant may be awarded, *a student shall apply for all available financial aid, including, but not limited to, the Tennessee HOPE scholarship or Tennessee HOPE access grant, if eligible, and funds provided through the federal Foster Care Independence Act of 1999, if applicable. All financial assistance available to a student, other than the Tennessee HOPE foster child tuition grant, shall be applied to the student's total cost of attendance, as defined in 20 U.S.C. § 1087ll, prior to the granting of a Tennessee HOPE foster child tuition grant.*

(2) A Tennessee HOPE foster child tuition grant for a student attending an eligible public postsecondary institution shall cover any costs of tuition, maintenance fees, student activity fees and required registration or matriculation fees remaining *after applying all other student financial assistance from all sources towards the student's cost of attendance.*

(3) A Tennessee HOPE foster child tuition grant for a student attending an eligible four-year independent postsecondary institution shall be the cost of tuition, maintenance fees, student activity fees and required registration or matriculation fees remaining after applying all other student financial assistance from all sources towards the student's cost of attendance, or the average of the sum of full tuition, maintenance fees, student activity fees and required registration and matriculation fees charged at all four-year public postsecondary institutions, whichever is less. A Tennessee HOPE foster child tuition grant for a student attending an eligible two-year independent postsecondary institution shall be the cost of tuition, maintenance fees, student activity fees and required registration or matriculation fees remaining after applying all other student financial assistance from all sources towards the student's cost of attendance, or the average of the sum of full tuition, maintenance fees, student activity fees and required registration and matriculation fees charged at all two-year public postsecondary institutions, whichever is less.

(4) Notwithstanding any provision of this part to the contrary, a Tennessee HOPE scholarship or Tennessee HOPE access grant awarded to a student eligible for a Tennessee HOPE foster child tuition grant may be used for the cost of room and board, which shall not exceed the maximum cost of room and board provided through the facilities of the eligible postsecondary institution that the student is attending.

*Id.* (to be codified at Tenn. Code Ann. § 49-4-933(f)) (emphasis added).

The Tennessee Student Assistance Corporation ("TSAC") now interprets these provisions to mean that, to determine a proposed student's eligibility to receive a HOPE foster child tuition grant, it must include all financial assistance and the cost of attendance at the particular postsecondary institution in its calculation of the award. TSAC interprets the phrases "all available financial aid" in § 49-4-933(f)(1) and "all other student financial assistance from all sources" in § 49-4-933(f)(2) as including grants, scholarships, loans, and work-study financial aid awards. In its request, TSAC notes that, previously, it had interpreted these terms narrowly to include only grants and scholarships.

The question posed is one of statutory interpretation, requiring us to determine whether TSAC's interpretation of § 49-4-933(f) is reasonable. In construing statutes, we must "ascertain and give effect to the legislative intent without unduly restricting or expanding a statute's coverage beyond its intended scope." *Wilson v. Johnson County*, 879 S.W.2d 807, 809 (Tenn. 1994). When the statute is unambiguous, legislative intent is determined from the statute's plain and ordinary meaning of the language used. *Freeman v. Marco Transp. Co.*, 27 S.W.3d 909, 911 (Tenn. 2000). The statutory language must be "read in the context of the entire statute, without any forced or subtle

construction which would extend or limit its meaning." *National Gas Distribs. v. State*, 804 S.W.2d 66, 67 (Tenn. 1991).

We note that, in Tennessee, "interpretations of statutes by administrative agencies are customarily given respect and accorded deference by courts." *Riggs v. Burson*, 941 S.W.2d 44, 50-51 (Tenn. 1997) (citing *Chevron U.S.A. v. Natural Resources Defense Council*, 467 U.S. 837, 844 (1984)). Accordingly, courts will defer to TSAC's interpretation and will not "substitute their own construction of a statutory provision for a reasonable interpretation made by the administrator of an agency." *Chevron*, 467 U.S. at 844.

Applying the above principles of statutory interpretation, we agree with TSAC that the phrases in Tenn. Code Ann. §§ 49-4-933(f)(1) and (f)(2) must be interpreted to include grants, scholarships, loans, and work-study financial aid.<sup>3</sup> Because we conclude that the provisions in Tenn. Code Ann. §§ 49-4-933(f)(1) and (f)(2) are unambiguous, we will determine legislative intent from the plain meaning of their language. *Freeman*, 27 S.W.3d at 911. The phrase in subsection (f)(1) clearly requires that the student apply for *all financial aid available and that the financial aid "be applied to the student's total cost of attendance, before awarding a HOPE foster child tuition grant."* Tenn. Code Ann. § 49-4-933(f)(1). Similarly, subsection (f)(2) provides that the HOPE foster child tuition grant "shall cover any costs of tuition, maintenance fees, student activity fees and required registration or matriculation fees remaining after applying *all other student financial assistance from all sources towards the student's cost of attendance."* *Id.* at § 49-4-933(f)(2) (emphasis added). TSAC's interpretation comports with the structure of federal law regarding student assistance programs created by Title IV of the Higher Education Act of 1965, which includes grants, scholarships, and loans as forms of student assistance. *See, e.g.*, 20 U.S.C. § 1070a (Pell Grants); *id.* at § 1070a-31 (Academic Achievement Incentive Scholarships); *id.* at § 1070d-33 (Robert C. Byrd Honors Scholarship Program); *id.* at § 1078-2 (Federal PLUS Loans); *id.* at § 1078-8 (Unsubsidized Stafford Loans); *id.* at § 1087a (William D. Ford Federal Direct Loan Program); *id.* at § 1087aa (Federal Perkins Loans). *The same holds true for federal work-study programs. See 42 U.S.C. § 2751(a).* We conclude, therefore, that TSAC's interpretation of Tenn. Code Ann. § 49-4-933(f) is reasonable.

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OPE scholarships are designed "for study in pursuit of an associate or baccalaureate degree at an eligible postsecondary institution that is funded from net proceeds of the state lottery . . ." Tenn. Code Ann. § 49-4-902(31).

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essee HOPE access grant "means a grant for study in pursuit of an associate or baccalaureate degree at an eligible postsecondary institution that is funded from net proceeds of the state lottery and awarded to freshman students meeting the requirements of § 49-4-920." Tenn. Code Ann. § 49-4-902(32).

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me that grants, scholarships, loans, and work-study encompass all available forms of financial aid available to students. In addition, given that the Tennessee HOPE foster child tuition grant is solely financed with the net proceeds of the state lottery, the preemption provision in 20 U.S.C. § 1087uu is inapplicable.