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**UNIVERSITIES AND COLLEGES:
Payment of Credit Hour and
Special Grants to Community
College Districts For Fiscal
Years 1977 and 1978**

Fred L. Wellman
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Dear Mr. Wellman:

I have your letters concerning the payment of credit hour and special grants to community college districts wherein you ask the following questions relating to the dispersal of such grants for fiscal years 1977 and 1978.

1. Does Section 2-16 of the Public Community College Act require that a minimum average credit hour grant of \$17.61 be paid to each community college district even if the formula rates as specified in the appropriations bill for that fiscal year result in an average credit hour grant of less than \$17.61

to any community college district?

2. Does this average of \$17.61 only pertain to 'credit hour grants' or does it also include 'such other special grants as may be authorized by the General Assembly,' such as Special Assistance Equalization Grants and Disadvantaged Student Grants?

3. Can the Illinois Community College Board in FY1978 specify and pay credit hour grants and such other special grants to the local community college districts as may be authorized by the General Assembly in accordance with the FY1978 appropriations bill to the Illinois Community College Board (HB-2417 now Public Act 80-59) signed by Governor James Thompson, since (1) HB-2417 did not include any credit hour grant rates nor formulas or rates for other special grants, and (2) SB-830, which was designed to specify the credit hour rates in the statute for FY1978, was not passed by the General Assembly?

4. In a question related to our first letter to you regarding the minimum average credit hour grant of \$17.61, if the ICCB staff recommends that the ICCB change the formula for distribution of special grants for disadvantaged student programs to a formula based on the number of credit hours earned in one of the instructional program categories (such as remedial-developmental courses), would such special grants for disadvantaged students also count in determining the average of \$17.61 specified in Section 102-16 of the Public Community College Act for FY1978? Also, if the special grants for equalization are based on the number of credit hours earned by in-district students, would such special grants also count in determining the average credit hour grant of \$17.61?"

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Because the questions asked in your two letters are inter-related, I will respond to all of them in a single opinion.

In response to your first question, it is my opinion that, pursuant to section 2-16 of the Public Community College Act (Ill. Rev. Stat. 1976 Supp., ch. 122, par. 102-16), each community college district is entitled to receive minimum credit hour grants averaging \$17.61 per semester hour or equivalent for fiscal year 1977 even if the formula rates specified in Public Act 79-1297, the Illinois Community College Board's appropriation bill for 1977, result in an average credit hour grant of less than \$17.61. Therefore, the Board should authorize payment of a claim for the difference between the average amount of credit hour grants received and \$17.61 from any community college district which did not receive credit hour grants averaging \$17.61 or more.

Section 2-16 of the Public Community College Act provides in pertinent part as follows:

"Any community college district which maintains a community college recognized by the State Board is entitled to claim a credit hour grant for all instructional categories, the average of which is not less than \$17.61 for each semester hour or equivalent in a course carried through each mid-term by each student in attendance who is a resident of Illinois and

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such other special grants as may be authorized by the General Assembly. The rate of the credit hour grant shall be specified for each year in the Act making the appropriation for this purpose. Credit hour grants shall be provided for courses that are normally part of baccalaureate-oriented programs, occupational programs or general studies instructional programs approved by the Illinois Community College Board that apply to an associate degree or certificate.

* * *

(Emphasis added.)

Two differing constructions of the above language have been proposed. In one construction it is contended that the \$17.61 figure refers solely to the average of the rates authorized for the specified instructional categories. In the other construction it is contended that the \$17.61 figure refers to the average of the credit hour grants paid to any given community college district. It is my opinion that, in light of the statutory language, the latter construction is the correct one.

It is a rule of statutory construction that the language of an Act provides the best means for the Act's exposition. (General Motors Corporation, Fisher Body Division v. The Industrial Commission (1975), 62 Ill. 2d 106, 112; Illinois Chiropractic Society v. Giello (1960), 18 Ill. 2d 306, 312.) In the language of section 2-16 one finds the

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power of the Illinois Community College Board to authorize the payment of credit hour and special grants from funds appropriated to the Board by the General Assembly for that purpose. Also, in the language of section 2-16 the General Assembly has expressed its intention that each community college district receive credit hour grants averaging \$17.61 per semester hour or equivalent, even though the credit hour grants for specific instructional categories may vary.

In Public Act 79-1297, the General Assembly, in fulfilling the requirement that it set the rate for credit hour grants in the Act making the appropriation for such grants, provided that credit hour grant rates should vary depending upon the category of instruction for each credit hour. The General Assembly, in Public Act 79-1446, then amended section 2-16 to change the appellation of the grants from "flat rate" to "credit hour" and amended the phrase "[a]ny community college district * * * is entitled to claim a flat rate grant of \$17.61 for each semester hour" to read "[a]ny community college district * * * is entitled to claim a credit hour grant for all instructional categories, the average of which is not less than \$17.61 for each semester hour". The apparent intent of the General Assembly in modifying the language was to insure that the credit hour grants paid to any given community college district would average

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at least \$17.61 even though grants paid for specific instructional categories may be larger or smaller than that amount. To say that the \$17.61 minimum renders the varying grant rate system ineffectual is incorrect because the Board's figures show that the varying grant rate produces a higher grant average for most districts. Furthermore, the statement in section 2-16 that any community college district is entitled to grants averaging \$17.61 clearly manifests a legislative intent that \$17.61 be the minimum average level at which grants should be paid to any given district.

In response to your second question, it is my opinion that the average of \$17.61 per credit hour pertains solely to credit hour grants. Therefore, special grants should not be included in the computation of the \$17.61 average grant figure even if such grants are paid on a credit hour basis.

In section 2-16 it is stated that a community college district "is entitled to claim a credit hour grant * * * the average of which is \$17.61 * * * and such other special grants as may be authorized by the General Assembly". For fiscal year 1977 the General Assembly appropriated funds for special assistance (equalization) grants, special grants for disadvantaged student projects and special grants for

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public service activities. (P.A. 79-1297.) All of the above grants are readily distinguishable from what is referred to in the statute as a "credit hour grant", and, even though equalization grants are paid on a credit hour basis, they are not includable in the credit hour grant computation because it is clear from the language of section 2-16 that special grants are to be paid in addition to credit hour grants averaging \$17.61.

In response to your third question, it is my opinion that the Illinois Community College Board has no authority to specify or authorize payment of credit hour grants for fiscal year 1978 because the General Assembly has failed to establish a rate or rates of payment in Public Act 80-59 which appropriates funds to the Board. The Board, however, appears to have the requisite authority to authorize payment of special grants.

Public Act 80-59 was apparently tailored for the operation of the grant program after the enactment of Senate Bill 830 which would extensively amend section 2-16. Senate Bill 830, however, failed to obtain approval in the last session of the General Assembly. Therefore, Public Act 80-59 is deficient in terms of section 2-16 because the General

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Assembly has failed to establish rates for credit hour grants.

Section 2-16 specifically provides that "[t]he rate of the credit hour grant shall be specified for each year in the Act making the appropriation" for credit hour grants. To disregard this language would be to presume that the General Assembly placed superfluous language in the Act, and the courts will not attribute such an intent to the General Assembly. (Skillet Fork Outlet Union Drainage District v. Fogle (1943), 382 Ill. 77, 85.) Furthermore, the General Assembly has specifically reserved to itself the right to set credit hour grant rates, and no authority to set such rates exists in the Board. Therefore, no credit hour rates may be specified and no authorization for the payment of such grants may be given by the Board without further action by the General Assembly amending either Public Act 80-59 or section 2-16.

Because the General Assembly, when it gave power to the Board to authorize the payment of credit hour and special grants upon claims from the community college districts, reserved to itself only the right to set rates for credit hour grants, it is apparent that the Board has authority to specify rates and authorize payment of special grants.

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Therefore, pursuant to the authority granted to it in section 2-16, the rule-making power granted to it in section 2-4 of the Act (Ill. Rev. Stat. 1975, ch. 122, par. 102-4) and the appropriation to the Board of amounts for special grants in Public Act 80-59, it appears that the Board can proceed to specify rates and authorize claims for the payment of special grants.

In response to your fourth question, it is my opinion that amounts paid out in special grants should not be included in the computation of the \$17.61 average even if such grants are distributed on a credit hour basis. As I stated in my response to question two, the language of section 2-16 indicates that special grants are completely separate from credit hour grants, and thus, cannot be used to raise the credit hour grant average.

A credit hour grant is a distinct type of grant. It is a specific amount set for the partial reimbursement of community college districts for a semester hour or its equivalent of instruction. The fact that any other type of grant is paid on a credit hour basis does not make that grant a credit hour grant but merely makes it a special grant

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paid on a credit hour basis. Clearly, such a special grant cannot raise the credit hour grant average.

Very truly yours,

A T T O R N E Y G E N E R A L