



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-13

Glen D. Johnson, Chancellor
Oklahoma State Regents for Higher Education
P.O. Box 108850
Oklahoma City, Oklahoma 73101-8850

December 1, 2015

Dear Chancellor Johnson,

This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following question:

For the purposes of the Teacher Shortage Employment Incentive Program, are participants who teach at Oklahoma technological or vocational centers eligible for benefits under the program?

I.
INTRODUCTION

In 2000, the Legislature enacted the Mathematics or Science Teacher Shortage Employment Incentive Program ("Incentive Program"), to increase the number of mathematics and science teachers in Oklahoma public schools. *See* 2000 Okla. Sess. Laws ch. 242, § 1 (codified as amended at 70 O.S.2011, § 698.3). The law provides that

- A. It is the intent of the Oklahoma Legislature that, beginning with the 2001-2002 school year, the Oklahoma State Regents for Higher Education establish a teacher shortage employment incentive program for students enrolled in a major course of study in mathematics or science at the undergraduate level or graduate level who declare an intention to serve and who subsequently serve this state by teaching in a secondary level public school of this state for a minimum of five (5) years in the subject areas of mathematics or science. Students meeting the criteria provided in this section shall be given the opportunity to enter into participation in the program.

- B. The Oklahoma State Regents for Higher Education are authorized to make employment incentive payments pursuant to the provisions of this section to persons who actually render a minimum of five (5) years of service as teachers in the public schools of this state if not less than seventy-five percent (75%) of the teaching assignment meets the criteria specified in subsection A of this section. The total amount of the employment incentive payments for any qualified person shall not exceed an amount equal to three times the average annual cost of undergraduate resident tuition and fees for full-time enrollment at institutions which offer teacher education programs within The Oklahoma State System of Higher Education, as defined by the State Regents. Any amount not necessary to repay the balance of a student's loans shall be paid directly to any person otherwise eligible for employment incentive payments pursuant to this section.
- C. The Oklahoma State Regents for Higher Education shall require the execution of appropriate contracts with eligible persons. Persons failing to comply with the requirements of this section shall not be eligible for the employment incentive payments provided for in this section. The Chancellor of the Oklahoma State Regents for Higher Education, with approval of the State Regents, may contract with any other appropriate organization or unit of government for the administration of the provisions of this section.
- D. If insufficient funds are available for employment incentive payments to qualified persons during any fiscal year, the Chancellor may make reductions in the payments made to those qualifying.

70 O.S.2011, § 698.3.

The Oklahoma State Regents for Higher Education (“State Regents”) have determined through administrative action that the “implied purpose of this legislation is to provide an incentive for students who major in mathematics or science to serve as teachers of mathematics and science in Oklahoma public secondary schools for at least five (5) years.” OAC 610:25-27-1(c). To apply for the Incentive Program, undergraduate or graduate students enrolled in a mathematics or science major course of study must submit the Incentive Program Participation Agreement forms to their college or university’s Incentive Program coordinator before they graduate. OAC 610:25-27-3(c)-(d). The Incentive Program coordinator then submits the agreement to the State Regents, which notifies each applicant of the receipt of the application and the details of the program. OAC 610:25-27-3(e)-(f). The student is eligible for Incentive Program benefits after they graduate, obtain a teaching license and certificate, and provide full-time teaching service under a regular teaching contract at an Oklahoma public school. OAC 610:25-27-6(1). The

teaching must be at the secondary level for five consecutive years, and be in the mathematics or science subject areas. *Id.*

You specifically ask whether the State Regents should provide Incentive Program benefits only to participants teaching in Oklahoma public high schools, and not to those individuals teaching at technical or vocational centers. The answer hinges on whether the Legislature intended to include technical or vocational centers within the definition of a “secondary level public school,” and on which courses fall within the “subject areas mathematics or science.” We examine these issues below.

II.

PARTICIPANTS TEACHING MATHEMATICS AND SCIENCE AT TECHNICAL OR VOCATIONAL CENTERS ARE ELIGIBLE FOR BENEFITS UNDER TITLE 70, SECTION 698.3 IF 75 PERCENT OF THEIR TEACHING ASSIGNMENT CONSISTS OF QUALIFYING MATHEMATICS OR SCIENCE INSTRUCTION.

The Legislature is presumed to have “expressed its intent in the statutory language.” *Twin Hills Golf & Country Club, Inc. v. Town of Forest Park*, 2005 OK 71, ¶ 6, 123 P.3d 5, 6. Thus, “[w]here the language of a statute is plain and unambiguous, legislative intent and the meaning of the statute will be gleaned from the face of the statute without resort to judicial rules of statutory construction.” *Id.* And whenever the Legislature defines a word or phrase in statute, “such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears.” 25 O.S.2011, § 2.

A. Technical and vocational centers fall within the meaning of “public schools.”

The Incentive Program requires five consecutive years of teaching mathematics or science in a “public school.” Neither Section 698.3 nor the State Regents define “public schools,” but the Oklahoma School Code of 1971 (“Oklahoma School Code”) defines public schools as

all free schools supported by public taxation and shall include nurseries, kindergartens, elementary, which may include either K-6 or K-8, secondary schools and technology center schools, not to exceed two (2) years of junior college work, night schools, adult and other special classes, vocational and technical instruction and such other school classes and instruction as may be supported by public taxation or otherwise authorized by laws which are now in effect or which may hereafter be enacted.

70 O.S.2011, § 1-106. Technology and vocational centers are funded by public monies, and provide tuition-free instruction to high school students residing in the technology center district. OAC 780:10-5-3; 780:15-3-6. Free technology center schools that are supported by public

taxation thus fall within the definition of “public schools” under the Oklahoma School Code. There is no other statutory or regulatory language in conflict with this plain reading of the statute. Technical and vocational centers are therefore “public schools” for the purposes of the Incentive Program.

B. Vocational and/or technical centers provide secondary level education.

In addition to the requirement that eligible teachers must provide instruction at a public school, the instruction must be provided at the “secondary level.” As with the term “public schools,” neither the statute at issue, nor any other statute, nor the State Regents have defined “secondary level,” but the Oklahoma School Code has. In a section of the Oklahoma School Code addressing disruptions at athletic events, “secondary school” is defined as a public or private school “engaged in the education of students for any of grades seven through twelve.” 70 O.S.2011, § 24-131.1(5).

Technology centers offer courses in certain grades that fall within the range specified by the definition of “secondary school.” For instance, certain science, technology, engineering, and mathematics courses are specifically designed for grades 9-10. OAC 780:20-3-2(b)(7)(F)(vii)-(viii). The technology center specifically acts as “an extension of the student’s high school.” OAC 780:15-3-6(a)(1). Further, high school students within the technology center district attend technology centers on a tuition-free basis. OAC 780:15-3-6(b)(1). Technology centers are thus “engaged in the education of students for any of grades seven through twelve” under certain circumstances, meaning that they provide secondary level instruction. 70 O.S.2011, § 24-131.1(5).

C. Vocational and/or technical center teachers are eligible for benefits under the Incentive Program if 75 percent of their teaching assignment is secondary level mathematics or science instruction.

Because vocational and technical centers are public schools that provide secondary level instruction, the key question becomes what qualifies as secondary-level mathematics and science instruction. The Legislature has set out specific benchmarks for the State Department of Education to follow in setting subject matter standards for public schools. 70 O.S.Supp.2015, § 11-103.6. Those benchmarks require completion of certain curriculum units for graduation from a public high school. For mathematics, students must complete three units or sets of competencies in “Algebra I, Algebra II, Geometry, Trigonometry, Math Analysis, Calculus, Advanced Placement Statistics, or any mathematics course with content and/or rigor above Algebra I and approved for college admission requirements[.]” *Id.* § 11-103.6(B)(2). For science, students must complete three units or sets of competencies in “Biology, Chemistry, Physics, or any laboratory science course with content and/or rigor equal to or above Biology and approved for college admission requirements[.]” *Id.* § 11-103.6(B)(3). These requirements can be replaced, however, with a “science, technology, engineering and math (STEM) block

course” that meets the requirements of the course competencies, is taught at a technology center by a certified teacher, and is approved by the State Board of Education and the independent district board of education. *Id.* §§ 11-103.6(D)(2)(h)(2), 11-103.6(D)(3)(o)(2). Mathematics and science courses taken at a technology school with a certified teacher also qualify. *Id.* §§ 11-103.6(D)(2)(i), 11-103.6(D)(3)(p). This broad language regarding the mathematics and science requirements permit high school students to take advanced mathematics and science courses taught outside the high school setting, and still apply those course credits to their graduation requirements, as long as the courses are approved for college admission requirements and the teacher is certified to teach that course.

Whether a teacher is providing mathematics or science instruction at a secondary level therefore depends on several factors. First, the course at issue must be a mathematics or science course, or a STEM block course. Second, if that course is not one of those listed in 70 O.S.Supp.2015, § 11-103.6(B)(2)-(3), the course must have content and/or rigor above Algebra I (for mathematics) or Biology (for science), and be approved for college admissions requirements. Third, the teacher must be certified to teach the subject area. Fourth, the course must be approved for credit by the State Board of Education and the independent district board of education. If 75 percent of the teaching assignment meets this criterion, the teacher is eligible for benefits under the Incentive Program. However, whether a specific teacher meets this criterion requires a case-specific analysis and is beyond the scope of an Attorney General Opinion.

III. CONCLUSION

Your specific question hinges on whether technical or vocational centers fall within the statutory language that requires participants to teach at a “secondary level public school.” State technology and vocational centers are supported by public taxation, and provide free education to students within the technology district, rendering them “public schools” under the statutory definition in the Oklahoma School Code. Technology and vocational centers provide instruction to high school students, which fits the statutory definition of “secondary level” instruction. But whether the mathematics or science instruction is “secondary level” and would qualify under the teaching requirement depends on the specific courses taught, and whether those specific courses have been approved for college admissions requirements.

It is, therefore, the official Opinion of the Attorney General that:

- 1. Technology and/or vocational centers are “public schools” providing “secondary level” instruction for the purposes of Title 70, Section 698.3 of the Oklahoma Statutes.**
- 2. If at least 75 percent of a technical and/or vocational teacher’s teaching assignment consists of courses that are (1) listed in Title 70, Section 11-**

103.6(B)(2)-(3) of the Oklahoma Statutes, or have content and/or rigor above Algebra I for mathematics and Biology for science and are approved for college admissions, (2) are courses that the teacher is certified to teach, and (3) are approved for credit by the State Board of Education and the independent district board of education, that teacher is eligible to receive benefits under the Teacher Shortage Employment Incentive Program, subject to the procedural requirements of the program.



E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA



A.J. STEWART
ASSISTANT ATTORNEY GENERAL

