

EDUCATIONAL INSTITUTIONS: TUITION ASSISTANCE GRANT ACT.

Act is program of financial aid, and not tuition subsidy, granted to individual student recipients at nonsectarian private institutions of higher education in Virginia.

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You ask whether the Tuition Assistance Grant ("TAG") program is a financial aid program or whether it is a tuition subsidy similar to the full-time equivalent appropriations that reduce the tuition of Virginia residents attending the Commonwealth's public institutions of higher education. For the purposes of this opinion, I shall assume that you are referring to language respecting the appropriations made by the General Assembly from the general fund to public institutions of higher education which are based on the number of full-time equivalent students attending such institutions.¹

Article 1, Chapter 4.1 of Title 23, §§ 23-38.11 through 23-38.19 of the *Code of Virginia*, a portion of the Tuition Assistance Grant Act (the "TAG Act"), establishes

a program of tuition assistance in the form of grants ... to or on behalf of bona fide residents of Virginia who attend private, accredited and nonprofit institutions of collegiate education in the Commonwealth whose primary purpose is to provide collegiate, graduate, or professional education and not to provide religious training or theological education.²

his program is administered by the State Council of Higher Education.³

The Supreme Court of Virginia has declared that the TAG Act provides "*financial aid* in the form of conditional grants ... *to students* in nonsectarian private institutions"⁴ and "has as a purpose the appropriation of money from the General Fund for *financial aid to undergraduate students* at institutions of higher education in Virginia."⁵ Additionally, the TAG Act itself refers to the aid given in the Act as "financial aid" received by the student.⁶

The primary goal of statutory interpretation is to ascertain and give effect to the intent of the legislature.⁷ Where the language of a statute is plain and unambiguous, it is presumed that the legislature intended what it plainly expressed, and no room is left for statutory interpretation.⁸ The language of the TAG Act is plain and unambiguous. It clearly provides for a program of financial aid to individual student recipients rather than a tuition subsidy to private institutions of higher education.⁹

Accordingly, it is my opinion that the TAG program is a program of financial aid and not a program providing a tuition subsidy to private institutions of collegiate education.

¹See Va. Code Ann. § 23-38.14.

²Section 23-38.12.

³See § 23-38.13.

⁴Miller v. Ayres, 214 Va. 171, 179, 198 S.E.2d 634, 640 (1973) (emphasis added).

⁵Miller v. Ayres, 213 Va. 251, 256, 191 S.E.2d 261, 266 (1972) (emphasis added).

⁶See § 23-38.17.

⁷See Turner v. Commonwealth, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983).

⁸See Town of South Hill v. Allen, 177 Va. 154, 165, 12 S.E.2d 770, 774 (1941); 1997 Op. Va. Att'y Gen. 117, 118.

⁹The language in § 23-38.14, referring to the "annual average appropriation per full-time equivalent student ... from the general fund of the state treasury for operating costs at two- and four-year public institutions of collegiate education," provides a measurement by which a ceiling may be imposed for the amount of tuition assistance allowable per year, per recipient under TAG.