

OFFICIAL OPINION NO. 76-49, Reduced tuition for members of South Dakota National Guard

May 4, 1976

Mr. Ronald M. Reed, Secretary  
Department of Education and Cultural Affairs  
New State Office Building  
Pierre, South Dakota 57501

OFFICIAL OPINION NO. 76-49

**Reduced tuition for members of South Dakota National Guard**

Dear Mr. Reed:

Your request for an opinion states as follows:

SDCL 33-6-5 reads as follows:

33-6-5. Any member of the national guard of the state of South Dakota who is a resident of the state of South Dakota shall upon compliance with all the requirements for admission subject to the provisions of § 33-6-7, be entitled to attend and pursue any undergraduate course or courses *in any state educational institution under the control and management of the board of regents* upon the payment of only fifty per cent of the charges for tuition. In no event shall eligible national guardsmen be entitled to more than four academic years under §§ 33-6-5 to 33-6-9 inclusive. The board of regents shall maintain an annual record of the number of participants and the tuition dollar value of such participation.

SDCL 33-6-7 reads in part:

33-6-7. To be eligible for fifty per cent of tuition without cost or reimbursement, a national guardsman shall:

- (1) to (3) . . . .
- (4) Maintain an average grade of "C" or better.

Extension courses offered by institutions under the control of the board of regents are self-supporting, and are not funded by state monies.

The specific questions you ask include:

1. Would a national guardsman taking an undergraduate extension course offered by an institution under the control of the board of regents be eligible to receive reduced tuition benefits under SDCL 33-6?

2. Is a guardsman whose grade average for the semester immediately prior to the semester for which he/she is applying for assistance under SDCL 33-6 is below a "C," but whose accumulated grade point average is "C" or better, eligible to receive reduced tuition benefits?

In my opinion, the answer to your Question No. 1 is YES. SDCL 33-6-5 provides the tuition reduction for "any undergraduate course or courses in any state educational institution under the control and management of the board of regents." The statute is quite broad and general and does not specify that a course or courses must be conducted on the campus of a state institution. It is my opinion that the intent of the Legislature was to provide educational benefits to active national guardsmen, and to restrict said benefits to on-campus courses would not serve to fully effectuate that intent. Pursuant to SDCL 33-6-8, the Secretary of Education and Cultural Affairs could adopt rules implementing and clarifying the procedure for enrollment in extension courses.

Your second question involves an interpretation of subdivision (4) of SDCL 33-6-7. That provision requires that an applicant for reduced tuition "maintain an *average academic grade* of 'C' or better."

Terms are to be used and understood in their ordinary sense unless otherwise defined or explained (SDCL 2-14-1). "Average" is defined in Websters as "a norm, mean or median." In addition, the statute requires that a "C" average be *maintained*. Thus, it is my opinion that the grade average referenced in SDCL 33-6-7 is cumulative and to be calculated from all prior college courses.

The fact that the grade point average for any one part of an applicant's academic career may be below a "C" will not make him ineligible. Eligibility is to be based on the accumulative grade point.

The answer to your Question No.2 is YES.

Respectfully submitted,

WILLIAM J. JANKLOW  
ATTORNEY GENERAL

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