

January 26, 2001
OPINION NO. 00-318

Mr. Cecil J. Picard
State Superintendent of Education
Department of Education
Post Office Box 94064
Baton Rouge, LA 70804-9064

La. Civil Code Article 11
LSA R. S. 39:98.3 C(7)
LSA R. S. 1:3

LSA R. S. 39:98.3 C(6)
LSA R. S. 39:98.3 C(8)

It is our opinion that the statement "other educational programs approved by the legislature" is very broad, and therefore, should be interpreted very broadly to be inclusive, rather than exclusive. It includes programs that have been previously approved by the legislature and any other program that will be approved by the legislature as a result of this legislation.

Dear Mr. Picard:

This office is in receipt of your recent opinion request in which you seek clarification of language found in Act 1295 of the 1999 Regular Session of the Louisiana Legislature called the Education Excellence Fund ("EEF"). Specifically you stated:

The Department of Education seeks clarification as to what is meant by the third programmatic area referenced in the legislation – "other educational programs approved by the legislature." Specifically, does this language include only those legislatively approved programs already identified in Title 17? Or is the legislation also intended to include prospective programs that may receive approval as a result of this legislation?

Education Excellence Fund legislation was enacted by Act 1295 of the 1999 Regular Session. This Act amended Title 39, Section 98.3 C(6) to read:

Monies appropriated pursuant to this Subsection shall be restricted to expenditure for prekindergarten through twelfth grade instructional enhancement for students, including early childhood education programs focused on enhancing the preparation of at-risk children for school, remedial instruction and assistance to children who fail to achieve the required scores on any tests passage of which are required pursuant to state law or rule for advancement to a succeeding grade, or other educational programs approved by the legislature. Expenditures for maintenance or renovation of buildings, capital improvements, and increases in employee salaries are prohibited. The state superintendent of education shall be responsible for receiving and allocating all money due private schools.

The Louisiana Civil Code Article 11 states that:

The words of a law must be given their generally prevailing meaning. Words of art and technical terms must be given the technical meaning when the law involves a technical matter.

Further, La. R. S. 1:3 reads as follow:

Words and phrases shall be read with their context and shall be construed according to the common and approved usage of the language. Technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

The list of proposed programs found in LSA R. S. 39:98.3 C(6) are illustrative of the types of programs a school system can implement. The statute uses the term “other” when describing the types of programs for which EEF money can be used. According to Merriam-Webster’s Collegiate Dictionary, Tenth Edition, “other” is defined as: “2: a different or additional one.” Therefore, other educational programs are different or additional to the ones specifically mentioned.

The statute specifically delineates those programs for which EEF money can not be used. The statute prohibits the use of EEF money “for maintenance or renovation of buildings, capital improvements, and increases in employee salaries.” Further, EEF money can not be used “to displace, replace, or supplant” funds already received by the school systems by general appropriations. LSA R. S. 39:98.3 C(8).

Other than these specific prohibitions the money can be used for any prekindergarten through twelfth grade instructional program for students as long as the proposed program: (1) is annually prepared and submitted to the Department of Education; (2) has a prioritized plan for the expenditure of funds it expects to receive in the coming year from EEF; (3) has performance expectations to ensure accountability in the expenditure of EEF monies; (4) is approved by the Department of Education; and (5) is approved by the “appropriate standing committee of the legislature.”

The Department of Education’s approval process consists of the review of the proposed program to assure compliance with the requirements of LSA-R. S. 39:98.3 C and to assure that the proposed program will support excellence in educational practice. LSA-R. S. 39:98.3 C(7).

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In conclusion, it is our opinion that the statement "other educational programs approved by the legislature" is very broad, and therefore, should be interpreted very broadly to be inclusive, rather than exclusive. It includes programs that have been previously approved by the legislature and any other program that will be approved by the legislature as a result of this legislation.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

By: _____
VERONICA L. HOWARD
Assistant Attorney General

RPI:VLH:lrs

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DATE REQUESTED:

DATE RELEASED: January 26, 2001

**VERONICA L. HOWARD
ASSISTANT ATTORNEY GENERAL**