



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

February 25, 1976

The Honorable William A. Webb
Acting Commissioner
Coordinating Board
Texas College and University
System
P. O. Box 12788, Capitol Station
Austin, Texas 78711

Opinion No. H-787

Re: Whether the Coordinating Board's policy statement on academic freedom and responsibility is a mandate or a recommendation.

Dear Commissioner Webb:

You have requested our opinion regarding a portion of section 61.057 of the Education Code, which reads, in pertinent part:

To achieve excellence in the teaching of students at institutions and agencies of higher education, the [Coordinating Board shall:

(1) develop and recommend:

. . . .

(E) minimum standards for academic freedom, academic responsibility and tenure. . . .

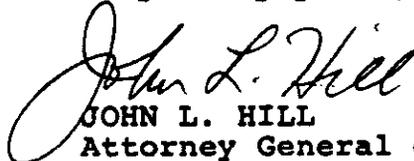
You ask whether an institution of higher education is required under this provision to adopt the terms of the Board's policy statement on academic freedom.

Although the statute clearly requires the Coordinating Board to "develop and recommend" minimum standards, it imposes no obligation upon any institution to adopt those standards. The use of the term "recommend" leaves no room for doubt. Its primary meaning is advisory rather than obligatory. In re Estate of Hogan, 146 N.W.2d 257, 259 (Iowa 1966). See also People of Virgin Islands v. Price, 181 F.2d 394, 396 (3d Cir. 1950); Mora County Board of Education v. Valdez, 300 P.2d 943, 946 (N.M. 1956); People v. Gates, 116 Cal. Rptr. 172, 178 (Ct. App. 1974). Thus, it is our opinion that an institution of higher education is not required by section 61.057 of the Education Code to adopt the terms of the Coordinating Board's policy statement on academic freedom. We express no view on your second question which asks whether or in what manner the Board should modify the language of its policy statement.

S U M M A R Y

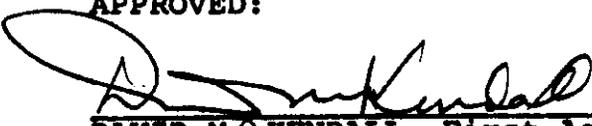
An institution of higher education is not required by section 61.057 of the Education Code to adopt the terms of the Coordinating Board's policy statement on academic freedom.

Very truly yours,


JOHN L. HILL

Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

jwb