



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

June 27, 1990

Honorable Eddie Bernice Johnson  
Chairman  
Health and Human Services  
P. O. Box 12068  
Austin, Texas 78711

LO-90-38

Dear Senator Johnson:

You ask whether the state may provide funds to a privately owned and operated institution of higher education. Article III, section 51, of the constitution prohibits the expenditure of funds for private purposes. A grant to a private university would be permissible if it served a public purpose and if adequate consideration flowed to the public. Attorney General Opinion MW-373 (1981). Also, there must be sufficient controls to ensure that the public purpose is actually achieved. Id. Whether a particular grant meets those criteria is a question of fact to be determined on a case-by-case basis.

You also mention that there have been discussions about converting the private institution in question into a public institution. A purchase of the institution's assets would violate article III, section 51, only if the state received inadequate consideration for its purchase price.

Yours very truly,

A handwritten signature in cursive script that reads "Sarah Woelk".

Sarah Woelk  
Letter Opinion Section  
Opinion Committee

SW/mc

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