

M e m o r a n d u m**515.0228**

To: Mr. Ramon J. Hirsig, Supervisor
Audit Evaluation & Planning Unit

Date: June 4, 1990

From: Ronald L. Dick
Senior Tax Counsel

Subject: Inquiry on Sale of Student Transcripts

This is in reply to your March 29, 1990 memorandum regarding the application of sales tax to transfers by the U--- of the P--- to students of copies of their student records.

As you noted, the Donahoe Higher Education Act (Ed. Code § 66000 et seq.) provides the law relating to student records. Section 67130 provides that any currently enrolled or former student has a right of access to all student records relating to that student. Section 67110 defines "access" to mean "a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record." Section 67123 provides that, "any college or university may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any student record; provided, however, that no charge may be made to search for or to retrieve any student record."

You noted that, since the school is providing the transcripts pursuant to statute, the transaction is nontaxable.

We agree. As you noted, the legal staff has previously taken the position that, "if the furnishing of copies of documents held by a municipality is made mandatory by statute or ordinance, the transfer of such tangible personal property is a governmental act and the tax does not apply, whether the amount of the charge for the copies is fixed by law or by a public official." (Bus. Taxes Law Guide Annot. 515.0140.) We believe the same result obtains when the transfer is of copies of transcripts at cost by a public or private college or university, pursuant to statute, at a fee prescribed by the statute. The transfer is not a consensual agreement; that is, it is an involuntary transfer.

RLD:sr