



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Mr. T. D. Brooks, Dean  
The Graduate School  
Agricultural and Mechanical  
College of Texas  
College Station, Texas

Dear Sir:

Opinion No. O-1153  
Re: Expenditure of scholarship  
aid appropriation for negro  
students. H. B. No. 255,  
46th Legislature.

We are in receipt of your letter of July 15, 1939, in which you submit the following questions concerning the proper construction and application of Item 102, Prairie View State Normal and Industrial College, Appropriation in H. B. No. 255, Forty-sixth Legislature, appearing at page 4241 of the House Journal, Forty-sixth Legislature.

"1. Are we permitted to pay expenses incurred in the making of these awards after September 1, 1939, from this fund? These expenses will be travel cost in attending necessary meetings of the Committee, the printing of forms, postage, etc. No expenses for salaries, wages, or per diem are in prospect.

"2. Can any part of the awards be paid to the student in advance of his expenditures for travel and tuition to provide aid in making such expenditures, or must the awards be paid to the student in partial reimbursement for expenditures already made by him?

"3. The Committee would like to fix the amount of each individual award to provide (1) the difference between tuition costs in the out-of-state institution which the student is to attend (the maximum, however, not to be in excess

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of such tuition costs in out-of-state institutions which correspond to the institutions in which Texas makes provision for white students) and those in a State supported institution for negroes in Texas; (2) the difference in travel cost for one round trip for each award; and (3) a small percentage addition to cover incidental increased expense. Does the Committee have authority to determine awards in this manner?

"4. The Committee anticipates that there will be a few applicants of exceptional merit as evidenced by their academic record and present service to their race, who cannot secure the further training they need with no greater aid than an award determined as indicated above. If the fund appropriated permits, can the Committee make supplementary awards in such cases?"

Item 102 of the appropriation for the Prairie View State Normal and Industrial College, H. B. No. 255, Forty-sixth Legislature, reads as follows:

"102. Scholarship aid to qualified Negro students who have been residents of Texas more than eight years for graduate and professional study in approved colleges or universities outside of Texas; schools and students to be selected by a committee composed of the dean of the graduate schools of A. & M. College, University of Texas, and the Dean of Sam Houston State Teachers College .....\$ 25,000.00 \$ 25,000.00."

It was no doubt contemplated and intended by the Legislature that the proper supervision and administration of the appropriation set out above would necessarily require a certain amount of incidental expenses of the nature mentioned in your first question. However, we have been unable to find any specific appropriation to meet the cost of printing forms, postage, necessary expenses in attending meetings, etc. In the absence of the specific allocation of moneys to defray these reasonable and necessary

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expenses, the imposition of the duty to properly administer and disburse the fund would carry with it by implication the power to pay such expenses as are reasonably necessary to accomplish the purpose for which the appropriation in item 102 was made.

With reference to your second, third and fourth questions, the act provides no direction to the committee or limitation upon the method used by it in determining the amount which should be awarded for each individual scholarship, or when and how such payments should be made. Apparently, the Legislature in selecting the members of the committee to administer this scholarship aid fund, attempted to select individuals, who from their experience and wise discretion could determine questions of this nature and formulate such policies as would secure the greatest benefit to the State in keeping with the purpose of the appropriation.

In answer to your first question it is our opinion that under the wording of the Act such incidental expenses as are reasonable and necessary to the proper administration of the above mentioned appropriation may be paid from such fund.

In answer to your second question, it is our opinion that the limitations in the Act upon making the awards are such that they may be paid to students in advance to provide aid in making such expenditures, under the direction of the committee.

It is our opinion, in answer to your third and fourth questions, that the committee may under the wording of the Act, fix the amount of each individual award in the manner suggested by your question, or by some other formula if considered desirable by the committee, and that supplementary awards may be made within the judgment of the committee.

You have not raised the question and we therefore do not consider or express an opinion concerning the validity of the above appropriation.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED AUG 7, 1939

*G. S. Mearns*  
ATTORNEY GENERAL OF TEXAS  
CCC-MR



*Cecil C. Cammack*  
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