



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

Feb. 26, 1947

Hon. L. A. Woods
State Superintendent of
Public Instruction
Austin, Texas

Opinion No. V-50

Re: Authority to pay the traveling expenses of Dr. Archie Jones, a professor at the University of Texas, from the contingent expenses provided for the expense of the Texas School of the Air, for making recorded lessons to be used in the public schools.

Dear Sir:

Your request for an opinion upon the above titled subject is as follows:

"Item 40 of the appropriation bill of the State Department of Education for the biennium 1945-1947 provides for contingent expenses for the Texas School of the Air, recorded lessons, maintenance, printing, and office expense in the amount of \$12,500.00. In the preparation of the recorded lessons which are broadcast over the Texas School of the Air it is necessary for persons to travel to the places where these records are made. The cost of this travel of persons participating in the creation of these records is considered part of the cost of making the records. The Texas School of the Air is a cooperative responsibility of the Texas University, A & M. College, North Texas State Teachers College, and the Texas State College for Women - each institution originating one or more of the series of programs which constitute the Texas School of the Air, whose direction vested in the State Department of Education. The University of Texas originates two of these programs - one is MUSIC IS YOURS. In the production of the latter series of radio broadcasts, Dr. Archie Jones, Professor of Music of the University of Texas, is master of ceremonies. The series at the present time is broadcasting musical efforts of a capella choirs, orchestras, bands, etc. from the various public colleges and high schools of the State.

"It is necessary for Dr. Jones to travel to these institutions to participate and produce records that are broadcast as a part of the Texas School of the Air that is directed into the classrooms of the Texas Public Schools.

"The above explanation is given to show that the travel expense of Dr. Archie Jones is a necessary cost in the production of these musical radio programs. The Comptroller has so recognized this as a legitimate cost until your Department ruled to the contrary in an opinion given to some other Department of Government within the State.

"Question: Can the traveling expenses of Dr. Archie Jones be paid from the contingent expenses provided for the expense of the Texas School of the Air for making recorded lessons, as it is necessary for him to be present at the time that the records are made?"

Item 40 of the appropriation for the State Department of Education for the current biennium is as follows:

"Contingent expense for the Texas School of the Air, recorded lessons, maintenance, printing, and office expense, \$12,500.00."

It is our opinion that this item constitutes a sufficient specific appropriation within the meaning of the Constitution, to authorize the travel expense of Dr. Archie Jones, under the facts stated by you. The express appropriation for "recorded lessons, maintenance for Texas School of the Air," includes by necessary implication the further necessary expense of making such recorded lessons. It is a familiar saying in the law that what is necessarily implied in a writing is as much a part of the instrument as though it had been literally expressed.

This case is easily distinguishable from our Opinion V-05, in respect to the sufficiency of the specific appropriation to authorize payment.

SUMMARY

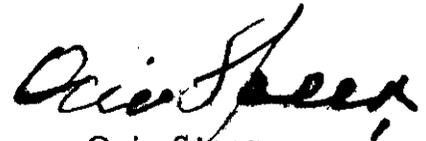
(1) The travel expenses of one necessarily required in making records for the Texas School of the Air, may lawfully be paid from Item 40, of the current biennium appropriation, for the Department of Education.

(2) "Contingent expense for the Texas School of the Air, recorded lessons, maintenance..... \$12,500.00," is sufficient as a specific appropriation.

Yours truly,

ATTORNEY GENERAL OF TEXAS

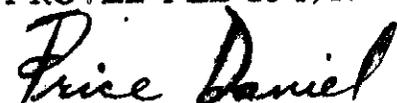
BY



Ocie Speer
Assistant

OS:acm:sl

APPROVED FEB 25 1947



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