



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL

ATTORNEY GENERAL

May 1, 1947

Hon. Gibb Gilchrist, President  
Agricultural and Mechanical  
College of Texas  
College Station, Texas Opinion No. V-188

Re: Receipt of Tuition and  
Fees by State Institu-  
tions of Collegiate  
Rank from the Veterans  
Administration.

Dear President Gilchrist:

Your request for opinion presents the following questions:

"(1) What State educational institutions are 'institutions of collegiate rank' within the meaning of Sections 1 and 4 of Article 2654b-1 of the Revised Civil Statutes of Texas?

"(2) May State institutions of collegiate rank in Texas lawfully charge and receive payment of tuition and fees on account of honorably discharged veterans for training under the provisions of Public Law No. 16, 78th Congress, approved March 24, 1943, or Public Law No. 346, 78th Congress, approved June 22, 1944, for the period between May 15, 1943, the effective date of Section 3 of Article 2654b-1 of the Revised Civil Statutes of Texas, and September 4, 1945, the effective date of Section 4 of Article 2654b-1 of said statutes?

"(3) If the above-mentioned institutions of collegiate rank may now lawfully charge and require, or lawfully receive payment of tuition and/or certain fees for education or training of the persons mentioned in (2) above during the period of time therein mentioned, are there any fees which such institutions may lawfully charge and require or lawfully receive

payment for, as to such persons during said period and, if so, what are said fees?"

The answer to your first question may be found in the various separate statutes concerning State educational institutions to which you should refer with reference to any particular institution is determining whether or not it offers college courses. For the purposes of this opinion, it is believed that the words "institutions of collegiate rank" are synonymous with the words "State educational institutions" as used in Article 2654a, and at least include all of such listed institutions as follows:

"Sec. 3. The words 'State educational institutions' as used in this Act shall include the following and any branch thereof: The University of Texas; the Agricultural and Mechanical College of Texas; the various State teachers' colleges of Texas; the College of Industrial Arts of Texas; the John Tarleton Agricultural College of Texas; the North Texas Agricultural College; the Prairie View State Normal and Industrial College; the Texas Technological College; and any other State educational institutions either heretofore provided for or hereafter to be provided for under the laws of this State."

Your second question presents the problem of whether such educational institutions may receive payments for tuition and fees of veterans of World War II who attended such schools under Public Law No. 16 and Public Law No. 346 of the 78th Congress for the period between May 15, 1943, and September 4, 1945. This question is submitted in view of the Act passed by the 48th Legislature in 1943 adding Section 3 to Article 2654b-1 to extend previous World War I tuition and fee exemptions in state colleges to veterans of World War II, reading as follows:

"Sec. 3. All of the above and foregoing provisions, conditions and benefits hereinabove in this Article provided for

in Section 1 and in Section 2 shall apply and accrue to the benefit of all nurses, members of the Women's Army Auxiliary Corps, Women's Auxiliary Volunteer Emergency Service, and all members of the United States Army or of the United States Navy or the United States Coast Guard, who have or are now serving, or who may after the passage of this Act, serve in the armed forces of the United States of America during the present World War Number II, being the war now being prosecuted, and which was entered into on or shortly after December 7, 1941, by the United States of America against what are commonly known as the Axis Powers; provided, further, that all the above and foregoing persons named have been honorably discharged from the services in which they were engaged. And provided further, that the benefits and provisions of this Act shall also apply and inure to the benefit of the children of members of the United States Armed Forces, where such members were killed in action or died while in the service. The provisions of this Act shall not apply to or include any member of such United States Armed Forces, or other persons hereinabove named, who were discharged from the service in which they were engaged because of being over the age of thirty-eight (38) years or because of a personal request on the part of such person to be discharged from such service.

"Other than as amended herein, present Article 2654b-1 is hereby reenacted and shall in all things continue in full force and effect subject only to the addition of the above section to be known as Section 3."

This Section stood alone until Section 4 was added by the 49th Legislature, effective September 4, 1945. As shown by the original Act, Article 2654b-1, V. C. S., the veterans described therein and in Section 3 above quoted are exempt from the payment of all dues, fees, and charges ordinarily made by State institutions other than library and

laboratory deposits, and charges for lodging, board, or clothing.

The above exemptions are personal to the veterans and do not prohibit the State institutions from receiving payment of tuition and fees from the Veterans Administration or any other Federal agency. Neither is there anything in this Act which prohibits submission of charges, or statement of such tuition and fees to the Veterans Administration or any other Federal agency which operates a program of educational training benefits in cooperation with or by grants to the State institutions.

This interpretation is in complete harmony with Public Law No. 16 and Public Law No. 346, 78th Congress, together with amendments thereto and interpretations and instructions issued thereunder by the Veterans Administration. In setting up Federal programs for educational and training assistance to veterans, Congress provided for payment of certain tuition and fees to educational institutions and recognized that many of the veterans would elect to receive such education and training in State supported institutions, some of which have no established tuition rates, and many of which have tuition and fee rates less than the amounts necessary to cover the costs of such education and training. Provision was made to cover such situations in Public Law No. 346 in the following words:

"And provided further, That if any such institution has no established tuition fee, or if its established tuition fee shall be found by the Administrator to be inadequate compensation to such institution for furnishing such education or training, he is authorized to provide for the payment, with respect to any such person, of such fair and reasonable compensation as will not exceed \$500 for an ordinary school year."

Under the above quoted authority from Congress, the Veterans Administration set up certain methods of arriving at the rate of tuition and fees which will be paid to State and other institutions having no established tuition and fees or whose

established tuition and fees are found by the Administrator of Veterans Affairs to be inadequate compensation for furnishing such education or training. See Veterans Administration Instruction No. 6, Title II, P. L. 346, 78th Congress, April 17, 1945. It will be noted that such charges and payments are not made directly to the veteran but are made to the educational institution.

Therefore, it is our opinion that Texas educational institutions may lawfully submit statement of charges and receive payment of tuition and fees from the Veterans Administration for any veterans who attend such institutions under the provisions of Public Law 16 as amended and Public Law No. 346 as amended, and that Section 3, Article 2654b-1 did not prohibit such action between May 15, 1943, and September 4, 1945, the effective date of Section 4, which was added by the 49th Legislature to clarify any doubt that might exist about the matter.

Having answered questions 1 and 2 as above, your request calls for no answer to question 3.

SUMMARY

State educational institutions of collegiate rank may submit statement for and receive payments of tuition and fees on account of World War II veterans who attend such institutions under Public Law No. 16 and Public Law No. 346 (G. I. Bill) of the 78th Congress.

Yours very truly,

*Price Daniel*

Price Daniel  
Attorney General

PD:eb:mrj