



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

August 22, 1952

Hon. C. H. Cavness
State Auditor
Austin, Texas

Opinion V-1507

Re: Legality of including "G.I."
(Teague Bill) students in
calculating the apportion-
ment of public junior col-
lege appropriations, and
the legality of admitting
nonresident "G.I." (Teague
Bill) students at resident
tuition rates.

Dear Sir:

We refer to your recent request addressed to
this office which reads as follows:

"1. We shall appreciate your advising
us if in your opinion funds appropriated in
Article IV, House Bill 426 of the 52nd Legis-
lature, may be apportioned and paid to the
Public Junior Colleges enumerated therein for
semester hours being taken during the coming
1952-1953 school year by students who are
receiving education allowance benefits from
the Federal Government as provided in H. R.
7656, 82nd Congress, Second Session. That
Act is known as 'Veterans Readjustment As-
sistance Act of 1952.'

"We quote herewith another question on
the new G.I. Bill from one of the State Col-
leges (Senior) and ask your opinion directly
on it - of course all State Colleges will be
affected. This is:

'A question has arisen concerning
the provisions of the new G.I. Bill
for education of Korean veterans. Is
it your interpretation that an out of
state student who is a Korean veteran
will pay the out of state tuition if
he elects to attend a Texas State Sup-
ported Institution? A student whose

home is in another state has made application for admission to Texas College of Arts and Industries at the beginning of the coming fall semester and has objected to the payment of an out-of-state fee on the ground that he is a Korean veteran."

Article IV of House Bill 426, Acts 52nd Leg., R.S. 1951, ch. 499, p. 1228, at page 1443, provides lump sum appropriations for the biennium (September 1, 1951, through August 31, 1953), and for the apportionment thereof to the public junior colleges listed therein which qualify under its provisions. Section 4 of Article IV, supra, provides as follows:

"The funds herein appropriated shall be disbursed to the Public Junior Colleges which qualify to receive it on the basis of . . . (\$189) per capita for each full-time student equivalent enrolled in approved courses of study, or proportionately if the total appropriation made by this Article should be insufficient to provide the full . . . (\$189) per capita.

"The term 'full-time student equivalent' as herein used shall be defined as a student taking fifteen (15) semester hours of approved courses; and the number of full-time student equivalents for any Junior College to be benefitted by this Article shall be determined by dividing by fifteen (15) the total number of semester hours of approved courses carried by all eligible students as of November 1st in each fiscal year, except that not more than eighteen (18) semester hours being carried on that date by any individual student shall be counted, nor shall the semester hours carried by any student in excess of a total of sixty-six (66) semester credit hours earned in a Public Junior College be counted; and provided further that the count of semester hours shall not include those being carried by any students who have not made timely compliance with the requirements of Section 3 (a) above, nor

those being carried by any student (except Vocational Rehabilitants) whose tuition and fee expenses are paid by the United States Government." (Emphasis added throughout.)

Section 3 referred to in the quoted Section 4 reads as follows:

"It is further provided that to be eligible for and to receive a proportionate share of this appropriation a Public Junior College shall:

"(a) Prior to November 1st of each year, collect matriculation and other session fees not less than the amounts provided for by law for State-supported institutions of higher learning (for full-time and for part-time students from each enrolled student) Art. 2654c, V.C.S., except this shall not apply to any student who may be exempt from the payment of such fees by State law Art. 2654b-1, V.C.S.; . . ."

Thus, in this statutory formula for proportionate disbursement of the junior college appropriations, it is provided that the count of semester hours required therein shall not include those semester hours carried by any students whose tuition and fee expenses are paid by the United States Government, except vocational rehabilitants.

In 1943 Section 3 of Article 2654b-1, V.C.S., was enacted. This statute exempted from the payment of tuition at our public institutions of collegiate rank veterans of the armed services of World War II, as designated therein, who were citizens of Texas, honorably discharged, and who had not been discharged on personal request or because over the age of thirty-eight years. But in 1945, after the passage of Public Law 346, 78th Congress, bestowing Federal educational benefits on certain veterans of the armed services of World War II, Section 4 of Article 2654b-1, V.C.S., was enacted, which provides in part as follows:

"Sec. 4. The exemption from the payment of dues, fees and charges as provided hereinabove in Section 1 and Section 3 of this

Article Art. 2654b-1, V.C.S. shall not apply to or include honorably discharged members of such United States Armed Forces, or other persons hereinabove named, who are eligible for education or training benefits provided by the United States Government under Public Law No. 16, 78th Congress, Vocational rehabilitants, or amendments thereto, or under Public Law No. 346, 78th Congress G.I. Bill or amendments thereto, or under any other Federal legislation that may be in force at the time of registration in the college concerned of such ex-service man or woman. As to all ex-service men or women as defined in this section, the governing boards of each of the several institutions of collegiate rank, supported in whole or in part by public funds appropriated from the State Treasury, are hereby authorized to enter into contracts with the United States Government, or any of its agencies, to furnish instruction to such ex-service men and women at a tuition rate which covers the estimated cost of such instruction or, in the alternative, at a tuition rate of . . . (\$100.00) a semester, as may be determined by the governing board of the institution concerned; . . . "

See also paragraphs 2 and 4 of Section 1 of Article 2654c, as amended in 1947 by House Bill 507, Acts 50th Leg., R.S., 1947, ch. 218, p. 389, each containing the following provision:

" . . . provided that the nonresident registration fee may within the discretion of said governing board be charged the United States Government for veterans enrolled under the provisions of any Federal law and regulations authorizing educational or training benefits for said veterans, "

Section 4 of Article 2654b-1 specifically concerns veterans entitled to "G.I." Bill (P.L. 346) educational benefits, and the manifest purpose of that law was to allow the several public institutions of collegiate rank in Texas to realize tuition payments from the Government on such veterans. Att'y Gen. Op. V-688 (1948).

Therefore, it seems reasonable to suppose that the Legislature, when it incorporated in the junior college appropriation (Art. IV of H. B. 426, supra) that provision prohibiting the inclusion of semester hours of veterans whose education is paid for by the Government, had in mind only the educational benefits afforded veterans under Public Law 346 or some other law providing for similar tuition payments by the Government. Tuition payments under Public Law 346 are governed by the following provisions (see 38 U.S.C.A. 1951 pocket part, p. 248, Veterans Regulations):

"The administrator shall pay to the educational or training institution . . . for each person enrolled in full time or part time course of education or training, the customary cost of tuition, and such laboratory, library, health, infirmary, and other similar fees as are customarily charged, and may pay for books, supplies, equipment, and other necessary expenses, exclusive of board, lodging, other living expenses, and travel, as are generally required for the successful pursuit and completion of the course by other students in the institution: Provided, That in no event shall such payments, with respect to any person, exceed \$500 for an ordinary school year unless the veteran elects to have such customary charges paid in excess of such limitation, in which event there shall be charged against his period of eligibility the proportion of an ordinary school year which such excess bears to \$500: . . . And provided further, That any institution may apply to the Administrator for an adjustment of tuition and the Administrator, if he finds that the customary tuition charges are insufficient to permit the institution to furnish education or training to eligible veterans, or inadequate compensation therefor, may provide for the payment of such fair and reasonable compensation as will not exceed the estimated cost of teaching personnel and supplies for instruction; and may in like manner readjust such payments from time to time. . . . in the computation of such estimated cost of teaching personnel and supplies for instruction in the case of any nonprofit educational institution, no reduction shall be made by reason of any payments to such institution from State or municipal or other non-Federal public

funds, or from private endowments or gifts or other income from nonpublic sources . . ."

In addition to the above payments which are made directly to the educational institution, the Government also pays a subsistence allowance to the student.

We think that in arriving at the true meaning and purpose of that provision in Article IV of H. B. 426, supra, which excludes from the semester hours count those hours taken by students whose tuition is paid by the United States Government, it is necessary to consider in pari materia therewith Section 4 of Article 2654b-1. When that provision is studied in its proper relation to Article 2654b-1, it becomes readily apparent that the legislative intent was not to provide for a \$189 per capita State apportionment or appropriation to junior colleges for any full-time student equivalent whose cost of instruction was being paid directly to the college by the United States Government. The Legislature had in mind, we think, that the junior college would receive tuition benefits on veteran students from the Government under Public Laws 346 recited in Article 2654b-1, in such amounts as would make it unnecessary for the State to support junior colleges with State appropriations toward the education of such veterans. In this the Legislature reasoned correctly because, we are informed, the junior colleges have realized more on tuitions paid by the Government on its Public Law 346 veteran students than the \$189 per capita appropriated by the State to assist in the education of full-time student equivalents receiving no tuition aid from the Government.

However, with respect to veterans eligible for Government educational benefits under the Teague Bill (Public Law 550, 82nd Congress, 2d Sess.; H. R. 7656, to be codified 38 U.S.C.A., note foll. chap. 12) approved July 16, 1952, we find that Public Law 550 provides only for payments directly to the eligible veteran and limits the amount of tuition which the institution may charge to the established tuition which the institution requires similarly circumstanced nonveterans to pay.

Section 231 of H. R. 7656, supra, provides in part:

"(a) the Administrator shall pay to each eligible veteran who is pursuing a program of education or training under this

title, and who applies therefor, an education and training allowance to meet in part the expenses of his subsistence, tuition, fees, supplies, books and equipment."

Section 232 provides in part as follows:

"(a) The education and training allowance of an eligible veteran who is pursuing a program of education or training in an educational institution and is not entitled to receive an education and training allowance under subsection (b), (c), (d), (e), or (f) shall be computed as follows:

"(1) If such program is pursued on a full-time basis, such allowance shall be computed at the rate of \$110 per month, if the veteran has no dependent, or at the rate of \$135 per month, if he has one dependent, or at the rate of \$160 per month if he has more than one dependent. ..."

Section 234 provides as follows:

"The Administrator may, if he finds that an institution has charged or received from any eligible veteran any amount in excess of the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same course to pay, disapprove such educational institution for the enrollment of any veteran not already enrolled therein, except that, in the case of a tax-supported public educational institution which does not have established charges for tuition and fees which it requires nonveteran residents to pay, such institution may charge and receive from each eligible veteran who is a resident an amount equal to the estimated cost of teaching personnel and supplies for instruction attributable to such veteran, but in no event to exceed the rate of \$10 per month for a full-time course."

Tuitions payable by nonveteran residents enrolled in Texas public institutions of collegiate rank for fall and spring semester are fixed by statute, likewise the minimum-maximum rates within which college

boards may yearly establish tuitions for summer sessions. Pars. 1 and 4, Sec. 1, Art. 2654c, V.C.S. The minimum-maximum rates for tuition which may be charged nonresident nonveteran students, within which college boards may establish a fixed rate yearly, are also prescribed by law. Pars. 2 and 4, Sec. 1, Art. 2654c. Therefore, the tuition of nonveteran students, resident and nonresident, are "established charges" (established by statute with respect to residents, or established within limits fixed in the statute with respect to nonresidents) within the meaning of the above underscored provision in Section 234, H. R. 7656, supra. It follows that the tuition chargeable to veterans, residents or nonresidents, who apply and enroll for benefits under Public Law 550 (Teague Bill) may not be greater than the college legally charges nonveteran students, residents or nonresidents, respectively.

Under Article IV of House Bill 426, supra, our public junior colleges realize a state appropriation on each formula-determined nonveteran student, resident or nonresident, in the amount of \$189. May the provisions in that appropriation bill be construed to deprive such colleges of that \$189 state aid on veteran students, resident or nonresident, who enroll under application for Teague Bill benefits, and are subject to the same tuition charges established for nonveteran students, resident and nonresident, without doing violence to the underlying purpose of the junior college appropriation bill hereinbefore discussed? We think not.

The clear purpose of the appropriation made in the junior college bill was to grant state aid of \$189 or to the extent made available, on each formula-determined student whose tuition charges must be limited to those fixed in or established under provisions of Article 2654c, V.C.S.

Therefore, it is the opinion of this office that the funds appropriated in Article IV of House Bill 426, supra, may be apportioned and paid to the junior colleges enumerated therein on semester hours being taken during the 1952-1953 school year by veteran students receiving educational benefits from the United States Government as provided in the Teague Bill, Public Law 550, 82nd Congress, 2nd Session.

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In connection with your second question, it has been pointed out that Article 2654c governs in the matter of tuition that may be charged veteran applicants, resident and nonresident, who are eligible for education benefits under the Teague Bill, Public Law 550, supra. We find no provision in Article 2654c or other State law which would authorize the governing boards of our public institutions of collegiate rank to admit at resident tuition rates nonresident veterans of any war or national emergency, unless they as children of armed service personnel stationed in Texas come within the benefits of subsection (6) of Section 1, Article 2654c, V.C.S. Att'y Gen. Op. V-1502 (1952).

Therefore, a nonresident student who is a Korean veteran must pay the nonresident fees established for nonveteran nonresident students if he elects to attend a Texas State-supported institution of collegiate rank.

SUMMARY

Funds appropriated by Article IV of House Bill 426, Acts 52nd Leg. 1951, ch. 499, pp. 1228, 1443, may be apportioned and paid to the junior colleges enumerated therein for semester hours being taken during the 1952-1953 school year by veterans receiving educational benefits provided in Public Law 550, 82nd Congress, 2nd Session.

A nonresident student who is a Korean veteran and receiving payment for tuition and subsistence under P. L. 550, 82nd Congress, 2nd Session, will pay the nonresident tuition established for nonresident nonveteran students, under the provisions of Article 2654c, V.C.S., if he elects to attend a Texas State-supported institution of collegiate rank, unless the veteran is the child of armed service personnel stationed in Texas and thereby comes within the benefits of subsection (6) of Section 1, Article 2654c, supra.

Yours very truly,

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