



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

March 9, 1954

Hon. John H. Winters  
Executive Secretary  
State Youth Development Council  
Austin, Texas

Letter Opinion No. MS-119

Re: Interpretation of limitation  
on number of persons whose  
travel expenses may be paid  
for attending a meeting.

Dear Mr. Winters:

You have requested an opinion on the legality of paying travel expenses which you incurred in attending a meeting of the American Public Welfare Association in Chicago, Illinois, during the latter part of last year. The travel expense vouchers presented to the Comptroller of Public Accounts show that you claim reimbursement as Executive Secretary of the State Youth Development Council, to be paid from the Council's travel appropriation item. You have informed us that no other person attended the meeting as a representative of the Youth Development Council, but that three employees of the Texas Department of Public Welfare attended as official representatives of that department.

The Comptroller has rejected your claim, basing his rejection upon Section 8c, Article VI of the current general appropriation act (Chapter 81, Acts 53rd Leg., R.S., 1953, at p. 346), which reads in part as follows:

" . . . In no event shall more than three persons from any one agency be approved for travel to any one convention, organized gathering, or meeting of a similar nature."

It is the Comptroller's position that any duties you might perform for the Youth Development Council are performed as Executive Director of the State Department of Public Welfare

and that the limit on the number of persons attending any one meeting has therefore been exceeded.

Section 4 of Article 5143c, Vernon's Civil Statutes, creates the Youth Development Council with 14 members and provides that eight named state officers, including the Executive Director of the State Department of Public Welfare, shall serve as ex-officio members of the Council. Section 5 provides that the Executive Director of the Department of Public Welfare shall be Executive Secretary of the Council and shall be its executive and administrative officer.

It is quite true that you hold your membership on the Youth Development Council by virtue of your position with the Department of Public Welfare, but it does not follow that you are acting for the Department of Public Welfare in performing the duties arising from your membership on the Council. The Youth Development Council is created as a separate, independent agency of the state government, and its duties and functions are separate and distinct from those of any other agency. Although the Council membership consists in part of officers of other state departments and agencies, the Council acts as an independent body, completely free from domination or control by the boards and commissions which govern the departments and agencies from which its ex-officio members are drawn. These members, when acting in this ex-officio capacity, are acting on behalf of the Council and not of the department or agency from which their membership on the Council derives.

As further evidence of the independent character of the Council, the Legislature makes a separate appropriation for its activities. The appropriation item for travel expense is to be used to defray any such expenses in connection with the performance of duties and functions appertaining to the Council, whether the expenses are incurred by members of the Council or its employees. And it would make no difference that the expenses are incurred in connection with the services of the ex-officio members. To hold that ex-officio members could not perform travel for the Council would be an unwarranted limitation on the exercise of the powers vested in them as members of the council.

We think the determinative factors in this case are (1) whether your travel expenses in attending the meeting in question as a representative of the Youth Development Council could properly be paid out of the travel appropriation of the Council, and (2) whether the travel of more than three persons had been approved for payment out of that agency's appropriation. Your request for permission to perform this out-of-state travel set out the nature of the meeting and stated that you proposed to travel as a representative of the Council. Upon the facts there given, this office approved the trip as being for state business purposes, the approval being based upon the relationship between the purposes of the meeting and the functions of the Youth Development Council. In the absence of contrary facts, it is our opinion that the expenses of this trip may properly be paid out of the Council's travel appropriation. You have stated in your letter that no other member or employee of the Council attended this meeting. This being true, the limitation in Section 8c of Article VI of the appropriation act has not been exceeded. It therefore appears to us that you are entitled to reimbursement for this travel.

Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

By

Mary K. Wall  
Assistant

MKW:hp