



**THE ATTORNEY GENERAL
OF TEXAS**

File

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December 13, 1968

Hon. Bevington Reed
Commissioner, Coordinating
Board, Texas College &
University System
Sam Houston State Office Bldg.
Austin, Texas 78701

Opinion No. M-313

Re: Whether the Coordinating
Board of the Texas College
and University System has
authority to purchase IRS
Regulation 403(b) Annuity
Contracts for its employees.

Dear Mr. Reed:

Article 6228a-5, Vernon's Civil Statutes, specifies
". . . the 'Governing Boards' of the state-supported institutions
of higher education are hereby authorized to enter into agreements
with their employees for the purchase of annuities for their em-
ployees as authorized in Section 403(b) of the Internal Revenue
Code of 1954, as amended." (26 U.S.C.A. Sec. 403(b)). (Emphasis
supplied.)

You have requested our opinion as to whether this
statute authorizes the Coordinating Board of the Texas College
and University System to purchase such annuities for its em-
ployees.

The Higher Education Coordinating Act of 1965, Article
2919e-2, Section 2(a), provides that "'Board' means the Coordinat-
ing Board, Texas College and University System herein created."
Section (h) of said Section 2 provides that the "'Governing board'
means the body charged with policy direction of any public junior
college, public senior college or university, medical or dental
unit, or other agency of higher education, including but not
limited to boards of directors, boards of regents, boards of
trustees, and independent school district boards insofar as
they are charged with policy direction of a public junior
college." (Emphasis supplied.) Section 3 of said Act provides
that functions vested in the governing boards of the respective
institutions of higher education, not specifically delegated to
the Board, shall be performed by such boards. Section 11 of the
Act states that each governing board shall submit to the Board
certain information.

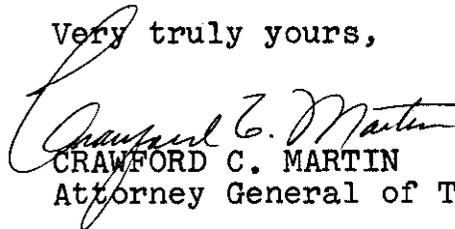
Hon. Bevington Reed, page 2 (M-313)

In view of the foregoing, and the statutory distinction made between "the Coordinating Board" and a "Governing Board," it is our opinion that the Coordinating Board is not a governing board of State-supported institutions of higher learning, and consequently, the Coordinating Board and its employees are not covered by the provisions of Article 6228a-5. The Coordinating Board is thus not authorized to purchase for its employees IRS Regulation 403(b) annuity contracts.

S U M M A R Y

The Coordinating Board, Texas College & University System, is not a governing board of State-supported institutions of higher learning within the provisions of Article 6228a-5, Vernon's Civil Statutes, and its employees are not covered thereby to authorize it to purchase IRS Regulation 403(b) annuity contracts for its employees.

Very truly yours,


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APPROVED:
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