



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

November 14, 1950

Hon. Howard E. Smith, M.D.
Acting Executive Director
Board for Texas State Hospitals
and Special Schools
Austin, Texas

Opinion No. V-1118

Re: Eligibility of a ward
of Waco State Home for
tuition exemption at
Texas A. & M. College
under the facts sub-
mitted.

Dear Sir:

You have requested an opinion concerning the eligibility of a ward of Waco State Home who recently graduated from the Rosebud High School for tuition exemption at Texas A. & M. College. We quote the following facts concerning the ward from your request:

"This young man had been committed to the Waco State Home as a dependent and neglected child and has been in a boarding home at Rosebud until September 1, 1950. Article 3259 (V.C.S.) allows the Superintendent of the Waco State Home to place children who are inmates of the Home in boarding homes. Article 3259 states that the children so placed shall be deemed to have the same status as other inmates of said Waco State Home and shall continue to be wards and subject to the guardianship of said Superintendent. The Superintendent is given the authority by this article to remove the children from the boarding home."

Article 2654f, V.C.S., provides:

"The governing boards of the institutions of collegiate rank operating in whole or in part by public funds appropriated from the treasury are hereby authorized and directed to exempt all citizens of Texas who at the time of their entry into a State educational institution of collegiate rank are

high school graduates of the State Orphanages from the payment of all dues, fees and charges whatsoever, including fees for correspondence courses; provided, however, that the foregoing exemption shall not be construed to apply to deposits, such as library, or laboratory deposits, which may be required in the nature of a security for the return of or proper care of property loaned for the use of students, nor to fees or charges for lodging, board or clothing. The governing boards of said institutions may and it shall be their duty to require every applicant claiming the benefits of the above exemption to submit satisfactory evidence that the applicant is a citizen of Texas and is otherwise entitled to said exemption." (Emphasis added.)

It is the interpretation of the Board for State Hospitals and Special Schools that the provisions of Article 2654f, above quoted, exempt the ward in question from the payment of tuition fees, while the Registrar of A. & M. College claims that the ward is not covered by Article 2654f since he is a graduate of Rosebud High School.

Article 3259, V.C.S., as amended by House Bill 923, Acts 47th Leg., 1941, ch. 369, p. 601, provides in part:

"Sec. 1. Children committed to the Waco State Home may be placed by the superintendent, upon the approval of the State Board of Control and under the authority of an order to that effect issued by the Court which committed such child to such institution, in children's boarding homes at a reasonable rate not to exceed One Dollar (\$1) per day for each child so boarded when in the judgment of such superintendent effective administration of said Waco State Home so requires; provided that such children's boarding homes shall obtain an annual license as required by law, which license shall be issued without fee, and under such reasonable and uniform rules and regulations as the State Board of Public Welfare may prescribe for all children's boarding homes in accordance with the laws of this State as same now exist or may hereafter be enacted. No child

shall be placed in such children's boarding home unless it is deemed advantageous to the welfare of such child; and children so placed shall be deemed to have the same status as other inmates of said Waco State Home and shall continue to be wards and subject to the guardianship of said superintendent. . . . (Emphasis added.)

In 2 Sutherland, Statutory Construction (3rd Ed. 1943) 531, it is stated:

" . . . Prior statutes relating to the same subject matter are to be compared with the new provision; and if possible by reasonable construction, both are to be so construed that effect is given to every provision of each. . . ."

In view of the foregoing, the provisions of Article 2654f must be construed in connection with Article 3259, which requires children placed in boarding homes by the Waco State Home "to have the same status as other inmates of said Waco State Home and shall continue to be wards and subject to the guardianship of said superintendent."

The emergency clause of House Bill 535, Acts 51st Leg., R.S. 1949, ch. 544, p. 1054 (Art. 2654f) provides:

"Sec. 3. Whereas, a number of the children who have been in the various State Orphanages and have graduated from high school and are now desirous of acquiring a college education, should be encouraged in their admirable ambition by exempting them from tuition, creates an emergency . . ."

The above quoted provision shows that it was the intention of the Legislature not to limit Article 2654f to graduates of State Orphanages' high schools but to make it apply to all high school graduates of State Orphanages whether such graduates attend high school at the orphanages or at another high school. This construction of Article 2654f gives meaning to both Articles 3259 and 2654f.

You are therefore advised that under the facts submitted the ward in question is exempt from the payment of tuition fees at Texas A. & M. College.

Hon. Howard E. Smith, M.D., page 4 (V-1118)

SUMMARY

A ward of a State orphanage who graduates from a public high school while in a "boarding home" (Art. 3259, V.C.S.) is exempt from tuition fees at a State educational institution of collegiate rank under Article 2654f, V.C.S.

APPROVED:

J. C. Davis, Jr.
County Affairs Division

Everett Hutchinson
Executive Assistant

Charles D. Mathews
First Assistant

JR:jmc:mw

Yours very truly,

PRICE DANIEL
Attorney General

By *John Reeves*
John Reeves
Assistant