



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

March 3, 1970

Honorable John Kinross-Wright
Commissioner
Texas Department of Mental Health
and Mental Retardation
Box S, Capitol Station
Austin, Texas 78711

Opinion No. M-589

Re: Authority of the Texas
Department of Mental
Health and Mental Re-
tardation to use the
appropriation for salaries
of classified positions
in payment of patient or
student assistance and
rehabilitation contracts.

Dear Dr. Kinross-Wright:

You have requested our opinion as to whether the Texas Department of Mental Health and Mental Retardation's appropriation for salaries of classified positions may be used in payment of patient or student assistance and rehabilitation contracts.

Section 18 of Article II of House Bill 2, Acts 61st Leg. 2nd C.S. 1969 (General Appropriation Act for the biennium ending August 31, 1971), provides at page II-45:

"PATIENT OR STUDENT ASSISTANCE. Subject to the approval and rules and regulations of the governing boards, patients or students in any state hospital or special school under the jurisdiction of the boards, who are assisting in the operation of the institutions as part of their therapy, may receive gratuities out of any funds available to the respective institutions in amounts not to exceed five dollars (\$5) per week for each such student or patient participating."

Subdivision (i) of Section I of Article V of House Bill 2 provides:

"Notwithstanding other provisions in this Article which authorize transfer of funds, no

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funds appropriated in this Act for salaries of classified positions may be transferred unless the language of this Act specifically authorizes the transfer of such funds appropriated for salaries of classified positions."

In view of the provisions of Subdivision (i) of Section 1 of Article V, above quoted, it is our opinion that the Texas Department of Mental Health and Mental Retardation does not have the authority to expend moneys for salaries of classified positions in payment of patient or student assistance and rehabilitation contracts.

Attorney General's Opinion WW-520 (1958) which holds

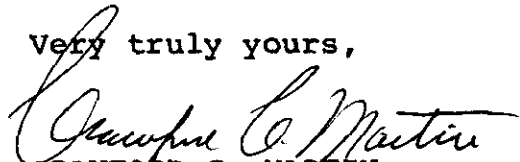
"Funds appropriated to the Board for Texas State Hospitals and Special Schools as the item 'medical treatment salaries and wages' may be used to pay the Central Education Agency costs of rehabilitation services pursuant to an interagency contract"

is not applicable to your request, since the Appropriation Act in 1957 did not contain provisions similar to Subdivision (i) of Section 1 of Article V of the current General Appropriation Act.

S U M M A R Y

The Texas Department of Mental Health and Mental Retardation does not have authority to expend appropriations for salaries of classified positions in payment of patient or student assistance rehabilitation contracts for the reason that Subdivision (i) of Section 1 of Article V, House Bill 2, Acts 61st Leg. 2nd C.S. 1969, specifically prohibits the transfer of funds appropriated for salaries of classified positions.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

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Prepared by John Reeves
Assistant Attorney General

APPROVED:
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Staff Legal Assistant

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NOLA WHITE
First Assistant