



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

March 28, 1972

Major General Ross Ayers
Adjutant General of Texas
P. O. Box 5218
Austin, Texas 78703

Opinion No. M-1106

Re: Tuition for National
Guardsmen.

Attention: Col. John B. Garrett
State Judge Advocate

Dear General Ayers:

You have requested our opinion as to whether members of the Air National Guard are to pay resident or non-resident fees at State institutions of higher education under the facts submitted.

The facts concern two individuals summarized as follows:

The individual "moved to Texas from Ohio in August of 1969, enrolled at NTSU in September of 1969, was accepted into the 531 AFB in July of 1970, and was formally enrolled in the unit in October of 1970. He has been gainfully employed since moving to Texas and he has resided in Texas continuously since August of 1969. He has paid non-resident tuition at NTSU and at the present time is financially unable to continue his studies unless he is placed in a resident tuition status." The individual "is 28 years old."

Another individual "moved to Texas from New York in September, 1969, and at that time had been a member of the 174 Tac Fighter Gp in Syracuse, N.Y., since April of 1966. He performed equivalent training with the 531 AFB from September of 1969 to January of 1970, at which time, he formally enrolled in the 531 AFB. He is a full time student at NTSU and has been paying non-resident tuition since first registering in September of 1969." This individual "is 24 years old."

Section 54.058 of the Texas Education Code provides for the classification of military personnel for the purpose of

paying tuition fees. Subdivision (b) of Section 54.058 provides:

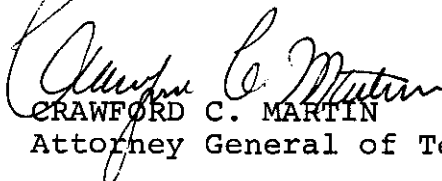
"An officer, enlisted man or woman, selectee, or draftee of the . . . Air National Guard, . . . who is assigned to duty in Texas is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fee and other fees or charges required of Texas residents, without regard to the length of time he has been assigned to duty or resided in the state. . . . It is the intent of the legislature that only those members of the Army or Air National Guard, Texas State Guard, or other reserve forces mentioned above be exempted from the nonresident tuition fee and other fees and charges only when they become members of Texas units of the military organizations mentioned above."

Under the facts submitted in your request, the individuals involved are members of Texas units of the Air National Guard. Therefore such individuals are classified under the provisions of Section 54.058, Texas Education Code, as resident students for the purposes of determining tuition rates.

S U M M A R Y

Under the provisions of Section 54.058 of the Texas Education Code, members of Texas units of the armed services mentioned therein are classified as resident students for tuition purposes.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

General Ross Ayers, page 3 (M-1106)

APPROVED:
OPINION COMMITTEE

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