



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

September 30, 1955

Opinion 0-177 N

Honorable Claude Isbell
Executive Secretary
Board of Regents of
State Teachers Colleges
Austin, Texas

Letter Opinion No. MS-242

Re: Collection and use of
State College matricu-
lation fees.

Dear Senator Isbell:

You have requested our opinion in regard to the collection and expenditure of matriculation and other fees by State Teachers Colleges. Sub-paragraph 3 of Article 2647, Vernon's Civil Statutes, provides a general authority for your Board of Regents in these matters by stating that "The board shall also have authority to fix the rate of incidental fees to be paid by students attending said schools and to make rules for the collection of such fees and for the disbursement of such funds." This authorization is not in conflict with any fees authorized by Article 2654a or Article 2654c, but is in addition to the powers there conferred.

Article 2654a authorizes the collection of a matriculation fee, the propriety of levying the fee being discretionary with each college. Matriculation fees are to cover the expenses of enrolling in and being admitted to a school. Article 2654c provides for the collection of a tuition fee, leaving no discretion in any college as to whether it shall be collected or not. Tuition fees are to cover, in whole or in part, the expenses of receiving instruction. Prohibitions or limitations on tuition fees have been construed by courts as not preventing the collection of matriculation fees. State v. Regents of University System of Georgia, 175 S.E. 567 (Ga. Sup. 1934); State v. Regents of the University of Wisconsin, 11 N.W. 472 (Wis. Sup. 1882).

Section 4 of Article 2654a (revived in October, 1952, by the expiration of the war time amendment thereof) provides that the payment of student activity fees shall not be made compulsory. This does not mean that the colleges may not collect student activity fees which students pay voluntarily. Neither does this limit the compulsory collection of a matriculation fee, if in its discretion the college makes this charge, nor the compulsory collection of the mandatory tuition fee.

Subdivision k of Section 18 of Article V of House Bill 140 (General Appropriation Bill of the 54th Legislature, 1955) page 49-50 directs collegiate institutions to deposit their cash receipts from sources including both matriculation and student activity fee collections in the State Treasury. Provision is made for deposit of funds in a bank and for transmittal every 5 days from the bank to the Treasury. Funds drawn from the bank must be transmitted to the Treasury. No other withdrawal is permitted. After deposit in the Treasury the funds may be paid out on warrants drawn by the Comptroller, for expenditures provided by law.

Expenditures of local funds are authorized in Article 2654d, with a limitation in Section 8a thereof that no local funds may be used to increase any salary beyond the sum fixed by the Legislature. Expenditures are therein also made subject to the appropriation bills, so that no question of conflict of a rider with a general law can be raised. Section 1 of this Article states that "the governing boards . . . may retain control respectively of the following sums of money collected." Section 4 provides for true and full accounts to be kept showing to whom and for what purposes all sums are paid out from these funds. Nowhere, in general law or appropriation bill rider, is there any limitation placed on expenditures for band trips, debate trips, etc. The governing board of each institution may, in the exercise of its control over its respective local funds, use them for any legitimate institutional expenditure except to raise salaries set by the Legislature in the general appropriation bill. When requested by the governing board to do so, the Comptroller should draw a warrant on the account from the State Treasury, and issue the warrant for the designated purpose.

Attorney General's Opinion O-177 (1939) and any other ruling of the Attorney General in conflict herewith is expressly overruled.

APPROVED:

J. C. Davis, Jr.
County Affairs Division

Robert S. Trotti
First Assistant

John Ben Shepperd
Attorney General

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By  Assistant

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