



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Clifford B. Jones  
President,  
Texas Technological College  
Lubbock, Texas

Dear Mr. Jones:

Opinion No. 0-4139

4433  
Re: Whether payments may be lawfully made to critic teachers in public schools for services in training in practice teaching.

Your letter of February 14, 1942, asking for an opinion from this Department, with respect to the above subject-matter is as follows:

\*Recently we sent to Honorable George H. Sheppard, State Comptroller, a voucher drawn on the above appropriation item of the State appropriation bill relating to Texas Technological College, to cover extra time and effort taken by 41 regular teachers in the Public School System of Lubbock, Texas, in supervising during the fall semester of 1941-1942, the teaching of practice teachers of the Department of Education of Texas Technological College, the same being students in training in practice teaching. Mr. Sheppard has raised the question as to the payment of such services being in violation of certain provisions of our State Constitution.

\*Our Department of Education is following a custom established many years back of using the well regulated public school system as laboratories for college students majoring in Education who are preparing themselves as future teachers of the State.

"It is one of the State's requirements that these students do this practice teaching as their required laboratory periods. We have always felt the College was fortunate in securing expert services for the small amount of cost as compared with any other arrangement under which work of this quality could be done.

"If we are denied the privilege of paying the teachers of the Public School System for such services, it will place us in a very serious situation. We believe it would be impossible for our students to secure such valuable training unless we are permitted to make arrangements with the teachers in our Public School System similar to that we have now, that is, to pay them a small fee to cover the extra time and effort taken in connection with this service.

"The voucher referred to above is for only \$285.00, and the maximum amount to be paid any one teacher is \$15.00.

" \* \* \* \* "

In a subsequent letter you further advise that:

"The remuneration is figured on the basis of \$5.00 per semester for each student teacher whose practice teaching is supervised and criticised or valued by the teacher critic.

"The courses are three semester hour courses for 18 weeks of approximately fifteen to twenty hours observation followed by fifteen to twenty hours teaching under the direction of critic teachers and the director of the practice teaching course.  
\* \* \* \* "

Section 33, Article XVI, of the Constitution, declares:

"The accounting officers of this State shall neither draw nor pay a warrant upon the treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust or profit, under this State or the United States, except as prescribed in this Constitution. \* \* \*."

The critic teachers mentioned by you may not be paid in the manner and for the services mentioned because such teachers hold positions of honor, trust and profit under the laws of this State as teachers in our public school system.

We find nothing in the facts stated by you with respect to the nature and character of employment that could authorize such payment upon the notion or theory that in performing this service for the College they are undertaking to do or perform a definite work or service as independent contractors, as contradistinguished from agents or appointees. On the contrary, they appear to be employees of the College, as other teachers in the Board's employ.

APPROVED APR 13, 1942

Very truly yours

ATTORNEY GENERAL OF TEXAS

*Sam Miller*  
FIRST ASSISTANT  
ATTORNEY GENERAL

By

*Osie Speer*  
Osie Speer  
Assistant

OS-11A

