



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable E. L. Wright
Superintendent
Texas School for the Deaf
Austin, Texas

Dear Sir:

Opinion No. 0-5887

Re: Payment of travel expenses
incurred by Superintendent
of State School for the
Deaf in attending Confer-
ence of Executives of
Schools for the Deaf of
America.

We are in receipt of your letter of February 8, 1944,
which reads in part as follows:

"There is to be a meeting of the Confer-
ence of Executives of the Schools for the Deaf
of America in Pittsburgh, Pennsylvania, April
24, 25 and 26, 1944. As chief executive of
this school, I am a member of the Conference,
and the President of the Conference has re-
quested that I appear on the program to dis-
cuss a phase of our work.

* * *

"Question: Is the State Board of Control
authorized to pay my expenses to this Confer-
ence? (Should they give me advanced written
consent? If the State Board of Control is au-
thorized to pay out funds for the purpose of
making this trip, to what extent are they
limited? In other words, am I bound to the
\$4.00 expenses per day as other departments?"

In the appropriation for the Texas School for the Deaf
there is omitted a specific item appropriation for the travel ex-
penses of the superintendent of the school or for travel expenses

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generally. The only specific travel expense item is for the Field Agent, \$700.00. There is, however, an item of \$100,000.00 for each biennium for support and maintenance.

In the general provisions attached to the Eleemosynary Appropriation Bill, it is provided:

"Traveling Expense. None of these appropriations may be used for traveling outside of the State of Texas without the advanced written consent of the State Board of Control except in adjoining states in deporting non-resident inmates and return escaped inmates to institutions. Otherwise, the State Comptroller shall apply the same rules to the approval and payment of traveling expenses of all employees except the superintendents of the eleemosynary institutions as he applies to the expenses of the state departments. Superintendents' trips shall be as authorized by the Board of Control.

"Except as herein otherwise provided, no money shall be expended for travel expenses except that specifically appropriated for said purpose; provided this limitation shall not apply to * * * institutional superintendents * * * wherein specific amounts are omitted from the itemized appropriations; and such travel and transportation expenses may be paid from support and maintenance appropriations and/or local institutional funds."

Your first question is whether the State Board of Control may authorize you to make the trip. We cannot answer your question categorically for lack of information concerning the work of the Conference of Executives of the Schools for the Deaf, the nature of the business there to be transacted in relation to your school, and the part your presence will have in the furtherance of your school's and the State's business.

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It is elementary, of course, that you cannot travel and expect to be reimbursed in the furtherance of your private rather than the State's business. The Legislature has made it the primary duty of the State Board of Control to gather the facts and determine whether your proposed trip is necessary and is State business. It is conceivable that that department might find your trip unnecessary although it would be, under the facts, State business. See our Opinions No. 0-1411 and 0-3453.

We answer your second question that if the Board of Control authorizes your trip you must secure their advance written consent in order to be reimbursed.

Your third question is whether if you are allowed to make the trip you will be limited to the amount of \$4.00 per day expenses for meals and lodging. Such a limitation is contained in the appropriation bill for the executive and administrative departments. Chapter 400, Acts 1945, p. 865, 1023. No such limitation is set forth in the appropriation bill for the eleemosynary institutions. Indeed, the Comptroller is directed not to apply the same rule in approving and paying traveling expenses of the superintendents of the eleemosynary institutions as he applies to employees of the state executive departments.

We therefore advise you that if you are authorized to make the trip by the Board of Control you will not be governed by the \$4.00 per day meal and lodging proviso contained in the appropriation bill for the executive and administrative departments. On the contrary, you will be entitled to receive your actual and necessary expenses.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Jas. D. Smullen
Jas. D. Smullen
assistant.

JDS:bb

E. L. Wright
acting
ATTORNEY GENERAL OF TEXAS

