



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY-GENERAL

Honorable C. D. Simmons
Comptroller
The University of Texas
Austin, Texas

Dear Sir:

Opinion No. 0-6077
Re: Applicability of Section 3
of Article 2654b-1 V.A.C.S.,
to persons honorably dis-
charged from the armed forces
under an option of discharge.

Your opinion request of October 13, 1944, reads in part as follows:

"The Board of Regents of The University of Texas has instructed me to request your opinion upon the question of whether or not certain persons who were honorably discharged from the military service of the United States by reason of Sec X, AR 615-360 & TWI 40403 SPXOC-E, 3 Aug. 44, while undergoing dental training at The University of Texas--School of Dentistry under the Army Specialized Training Program, and have now registered as civilian students in said School of Dentistry, are entitled under the provisions of Chapter 337, Acts, Regular Session, Forty-eighth Legislature (1943), to be exempt from the payment of registration, tuition, laboratory, and other fees which would otherwise be collectible from students registered in The University of Texas School of Dentistry."

The character of the discharges involved in your inquiry is explained by army officers in charge of the Army

Hon. C. D. Simmons, Page 2

Specialized Training Program as follows:

"The following information is given relative to the Discharges of Freshman, Sophomore or Junior Dental Trainees:

"Section X, AR 615-360, Discharge for Convenience of the Government.

"TDX 40403, SPKOC-E, dated 3 Aug. 44. Provides for the discharge of certain enlisted men now undergoing Dental Training under the Army Specialized Training Program as follows:

"Enlisted men pursuing Freshman, Sophomore and Junior Dental Training under the ASTP will, upon expiration of current term, quarter, trimester or semester, be allowed option of discharge or assignment to Medical Department.

"Each enlisted man will make his choice prior to the expiration of current term, quarter, trimester or semester.

"If enlisted man elects to remain on active duty he will be shipped to ASFTC at Camp Barksley, Texas or Ft. Lewis, Washington, whichever is nearer, for necessary training and assignment to Medical Department. Regardless of choice that is made, further training under ASTP is not authorized."

The persons about whom you inquire have elected to receive an honorable discharge rather than to be assigned to the Medical Department, and such persons have received the usual certificates of honorable discharge from the Army of the United States.

A broad exemption from the fees and charges of institutions of collegiate rank supported by the State is accorded veterans of the Spanish-American War and of World War I by Section 1 of Article 2654b-1, V. A. C. S. Section 3 of the same Article extends this exemption to certain veterans of the present war by providing as follows:

"Sec. 3. All of the above and foregoing provisions, conditions and benefits hereinabove in this Article provided for in Section 1 and in Section 2 shall apply and accrue to the benefit of all nurses, members of the Women's Army Auxiliary Corps, Women's Auxiliary Volunteer Emergency Service, and

Hon. C. D. Simmons, Page 3

all members of the United States armed forces, regardless of whether members of the United States Army or of the United States Navy or the United States Coast Guard, who have, or are now serving, or who may after the passage of this Act, serve in the armed forces of the United States of America during the present World War Number II, being the war now being prosecuted, and which was entered into on or shortly after December 7, 1941, by the United States of America against what are commonly known as the Axis Powers; provided, further, that all the above and foregoing persons named have been honorably discharged from the services in which they were engaged. And, provided further, that the benefits and provisions of this Act shall also apply and inure to the benefit of the children of members of the United States Armed Forces, where such members were killed in action or died while in the service. The provisions of this Act shall not apply to or include any member of such United States Armed Forces, or other persons hereinabove named, who were discharged from the service in which they were engaged because of being over the age of thirty-eight (38) years or because of a personal request on the part of such person to be discharged from such service.

"Other than as amended herein, present Article 2654b-1 is hereby re-enacted and shall in all things continue in full force and effect subject only to the addition of the above section to be known as Section 3." (emphasis added)

In our opinion, the underlined portion of the above statute is applicable to the situation about which you inquire. Consequently, you are respectfully advised that the persons in question are not exempt from the payment of registration, tuition, laboratory and other fees of the University of Texas School of Dentistry.

This opinion is limited to an interpretation of the Texas statutes applicable to this situation and is in no way to be construed as passing upon the eligibility of the persons

Hon. C. D. Simmons, Page 4

in question for educational benefits afforded by the federal government or by any agency or political unit other than the State of Texas.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *R. Dean Moorhead*
R. Dean Moorhead
Assistant

RDM:fo

RECORDED OCT 23 1944
Carroll Ashley

APPROVED
OPINION
COMMITTEE
BY *Blut*
CHA. TEXAS