



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

July 20, 1951

Hon. Spurgeon E. Bell
Vice-Chairman
Texas Southern University
Houston, Texas

Opinion No. V-1210

Re: Authority of the Board of Directors of Texas Southern University to place a Dean on ninety-day leave of absence with pay while serving as a Consultant in a Personnel and Research Seminar in India sponsored by the World Student Service Fund and UNESCO.

Dear Sir:

You have requested the opinion of this office concerning the authority of the Board of Directors of Texas Southern University to grant a Dean a ninety-day leave of absence with full salary in order that she may participate in a seminar to be held in India, sponsored by the World Student Service Fund and UNESCO.

The salaries, vacations, travel expenses, and general working conditions of employees of State institutions of higher education are governed by the provisions of House Bill 319, Acts 51st Leg., R.S. 1949, ch. 584 p. 1133, the biennial appropriation bill. A careful study of this Act does not disclose any provision authorizing a leave of absence with full salary to an institutional officer or employee attending a seminar of this character.

If the employee is not performing duties which are properly assigned to her in furtherance of a lawful function of the institution, it follows that she may draw no salary during her absence. As was stated in Attorney General's Opinion O-5803 (1944):

"The liability of the State for payment of compensation to an employee is predicated upon the conception of mutual agreement of the parties--the State and the employee--for service to be performed by the employee and payment

therefor to be made by the State. There can be no liability on the part of the State unless there has been performed the contemplated service by the employee. Compensation is an incident to the service and dependent upon it."

These activities, however meritorious they may be, do not constitute institutional business in our opinion, since we know of no statutory duty or function of Texas Southern University which is to be furthered or discharged by participation in this seminar.

The appropriation act in subsection (9) of its general provisions allows institutional employees a paid vacation of twelve working days if they are employed on a twelve months' basis. The Dean may therefore be paid only for a period not to exceed her accumulated vacation credit.

We do not find in the general law or in the higher education appropriation any provision which, either expressly or by reasonable implication, would authorize the allowance of a three months' paid leave of absence to an institutional employee for the purposes contemplated in the instant situation.

SUMMARY

The Board of Directors of Texas Southern University has no authority to grant a Dean a ninety-day leave of absence with pay for the purpose of allowing the Dean to serve as a consultant in a personnel and research seminar, sponsored by the World Student Service Fund and UNESCO, in India.

APPROVED:

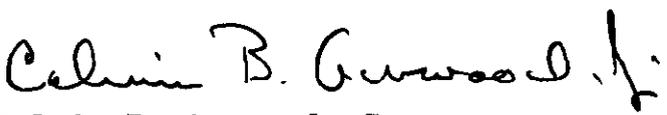
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Yours very truly,

PRICE DANIEL
Attorney General

By 
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CBG:em