



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

December 15, 1953

Hon. Tom Sealy, Chairman
The Board of Regents
The University of Texas
Post Office Box 670
Midland, Texas

Opinion No. S-116

Re: (A) Allowance of travel expenses of faculty member to deliver original research before a learned society. (B) Applicability of the limitation upon more than three persons attending any one convention or organized gathering to attendance by faculty members delivering original researches.

Dear Mr. Sealy:

You state that on November 9, 1953, the Geological Society of America and the Mineralogical Society of America, both of which are "national learned-societies," held a combined annual meeting in Toronto, Canada, in conjunction with meetings of the Geological Association of Canada. You also state that Dr. Stephen E. Clabaugh, a member of the faculty of the University, made a formal presentation of a paper at these meetings covering the results of certain original researches made by him.

First, you ask whether Dr. Clabaugh may be reimbursed for "all" travel expenses incurred by him in attending these meetings or, at least, for that portion of his travel expense incurred "within the United States."

The controlling statute for all travel expense questions is Section 8 of the General Provisions of the current general appropriation act. Acts 53rd Leg., 1953, Ch. 81, Art. VI, Sec. 8, p. 127 at pp. 345-348. Under the current act this single "Travel Expenses" section governs travel expense reimbursement for all agencies of the State government, whereas under previous

appropriation acts this subject was regulated by separate special provisions applicable to each of the major classes of State agencies.

After reciting certain preliminary definitions and limitations in Subsections "a" and "b", Subsection "c" of Section 8 declares what is no doubt the most fundamental of all limitations on out-of-state (as well as intrastate) travel expense reimbursement, namely, that reimbursable travel must be "for State business."* Subsection "c" next provides an administrative system for determining what is and what is not State business for purposes of out-of-state travel by requiring in most cases that the Attorney General make a prior written determination. Several exceptional cases are listed in which the Attorney General's determination is not required and among these is "out-of-state travel on official State business by officers and employees of the State agencies of higher education when such travel has been specifically authorized by the appropriate governing board." In these exceptional cases the designated boards or officers must make the necessary determination of purpose.

The final paragraph of Subsection "d" obviously pertains to the subject of what is State business and, consequently, must be read in conjunction with Subsection "c". Cf. Acts 52nd Leg., 1951, Ch. 499, Art. V, Sec. 35, p. 1228 at p. 1474. That final paragraph provides:

"The formal presentation of original researches, by an employee of an educational institution, if before a national, regional or state learned society approved in advance by

* Section 8 does not in so many words require that intrastate travel be for "State business" only. While not here involved, we deem it appropriate to say that such a requirement is implicit in the language and history of Section 8. While there are no particular criteria and there is no special administrative system provided in the statute for determining "state business" in relation to intrastate travel reimbursement, the pertinent considerations for State officers ultimately making such determinations have often been discussed. Att'y. Gen. Op. No. 0-1195 (1939); Att'y. Gen. Op. No. 0-5769 (1944).

the administrative head of the school, shall be considered state business."

In view of these provisions, we think it is clear that Dr. Clabaugh was on State business if his presentation was "approved in advance by the administrative head" of the University and was "specifically authorized by the . . . governing board of the University." If both of these conditions were satisfied, Dr. Clabaugh may be reimbursed in accordance with Section 8 limitations for all expenses, whether or not incurred within the United States. Neither Section 8 nor any other law known to us declares that State business can never be transacted outside of the United States. See Att'y. Gen. Op. No. 0-5769 (1944). Of course, you are aware that Section 8 imposes numerous limitations on reimburseable expenses and that, among other things, Dr. Clabaugh, if eligible for reimbursement, would not be entitled to reimbursement for actual daily expenses in excess of \$4 for meals and \$6 for meals and lodging since he is within none of the categories excepted from Subsection "k." Cf. Att'y. Gen. Op. No. MS-74 (1953).

The final sentence in Subsection "c" is as follows:

"In no event shall more than three persons from any agency be approved for travel to any one convention, organized gathering, or meeting of a similar nature."

Your second question is whether this "three-person" limitation applies to "officers or employees of educational institutions in the formal presentation of original researches before a national, regional or state learned society."

In our opinion, it makes no difference what kind of State business is performed by State officers or employees attending conventions, organized gatherings and meetings of a similar nature. For, it is not the kind of State business but, rather, it is the kind of meeting that is determinative so far as this limitation is concerned. The fact that the final paragraph of Subsection "d" explicitly defines approved formal presentations of original researches as "state business" is of no distinguishing significance. Numerous other

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State functions are explicitly classified as state business in Subsection "c". Several of these involve attendance by State officers or employees at meetings and conferences. Yet, in our opinion the "three-person" limitation applies to these defined functions the same as it applies to out-of-state functions which must be approved by the Attorney General. Cf. Att'y. Gen. Op. No. V-1376 (1951). Regardless of who makes the determination and gives final approval for travel to a convention -- the Attorney General, the Governor, the appropriate governing board of an agency of higher education, or some other officer or board -- no more than three persons shall be approved so as to become eligible for travel expense reimbursement from funds appropriated by Chapter 81.

Therefore, you are respectfully advised that the "three-person" limitation does apply to out-of-state travel by officers and employees of educational institutions for the purpose of formal presentation of original researches before national, regional or state learned societies.

SUMMARY

A member of the faculty of the University of Texas who made a formal presentation of original researches at meetings of national learned-societies held in Toronto, Canada, may be reimbursed for travel expenses to the extent permitted by the current general appropriation act if his presentation was approved in advance by the administrative head of the University and was specifically authorized by the Board of Regents. Acts 53rd Leg., 1953, Ch. 81, Art. VI, Sec. 8, p. 127 at pp. 345-348.

The "three-person per convention" limitation contained in Subsection "c" of Section 8 applies to all travel expense to be reimbursed from funds appropriated by Chapter 81, including travel by officers and employees of

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educational institutions for the purpose of
formally presenting original researches before
learned societies.

APPROVED:

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Yours very truly,

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