



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**WAGGONER CARR  
ATTORNEY GENERAL**

**September 15, 1965**

**Honorable M. T. Harrington  
Chancellor  
Texas A&M University System  
College Station, Texas**

**Opinion No. C-508**

**Re: Clarification of the hold-  
ing of Attorney General  
Opinion C-472 (1965).**

**Dear Mr. Harrington:**

You have requested clarification of our holding in Attorney General Opinion C-472 (1965) that state employees while staying overnight on state property or on military posts are not entitled to the twelve dollar per diem under the appropriation act adopted by the 59th Legislature.

You state that commercial hotel facilities are operated as a part of the Memorial Student Center Building of Texas A&M University consisting of "65 guest rooms available to the general public on a first come-first served basis at standard commercial rates . . .", and further, that, ". . . /e/ach occupant pays the hotel occupancy tax required under Articles 23.01-23.07, Chapter 23, Title 122A, Vernon's Civil Statutes . . ."

The Comptroller's office reads Attorney General Opinion C-472 (1965) as limiting State of Texas employees to a seven dollar per diem in all instances in which they spend the night in state owned facilities. That opinion was written without having in mind your particular situation, or the analogous situations which may exist in state or military institutions operating similar facilities. What was intended was that state employees should not receive the windfall of both free or nearly free lodging and the added per diem of five dollars a day which under the appropriation bill was clearly intended only to offset added expenses normally incurred as an incident to staying away from headquarters overnight while on state business.

A large number of state and military institutions make available, as a convenience for those on official business, rooms for which either no money is charged or else for which charges are made only to cover expenses. It was with regard to

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such facilities that Opinion C-472 (1965), was intended to be applicable.

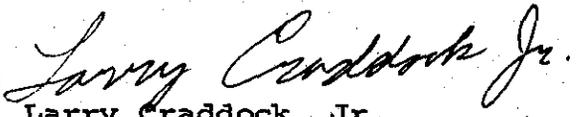
You are therefore advised that State of Texas employees who stay overnight in the Memorial Student Center Building of Texas A&M University or in similar facilities which are available to the general public at standard commercial rates and for which the hotel occupancy tax is paid under Articles 23.01-23.07, Vernon's Civil Statutes, are entitled to the twelve dollar per diem under the appropriation act adopted by the 59th Legislature.

SUMMARY

State of Texas employees who stay overnight in the Memorial Student Center Building of Texas A&M University or in similar facilities which are available to the general public at standard commercial rates and for which the hotel occupancy tax is paid under Articles 23.01-23.07, Vernon's Civil Statutes, are entitled to the twelve dollar per diem under the appropriation act adopted by the 59th Legislature.

Very truly yours,

WAGGONER CARR  
Attorney General

By:   
Larry Craddock, Jr.  
Assistant

LC:ra

APPROVED:  
OPINION COMMITTEE

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Phillip Crawford  
Howard Fender  
David Longoria

APPROVED FOR THE ATTORNEY GENERAL  
By: T. B. Wright