



The Attorney General of Texas

April 9, 1980

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An Equal Opportunity/
Affirmative Action Employer

Honorable Kenneth H. Ashworth
Coordinating Board
Texas College & University System
Austin, Texas 78711

Opinion No. MW-165

Re: Classification of faculty
members at Odessa College.

Dear Mr. Ashworth:

You ask whether full-time teaching faculty of Odessa College are to be considered classified, administrative, or professional staff members for purposes of article 6252-8a, V.T.C.S.

Article 6252-8a, V.T.C.S., provides that upon the death of a state employee, the state shall pay his estate for all the employee's accumulated vacation leave and for one-half his accumulated sick leave. "Employee" is defined to exclude

Sec. 1. . . . any person who is covered by the Teacher Retirement System of Texas, except . . . classified, administrative, and professional staff members employed by a State institution of higher education who have accumulated vacation or sick leave, or both, during such employment.

(Emphasis added). Thus, the "classified, administrative, and professional" language is operative only to save persons otherwise eligible for article 6252-8a, V.T.C.S., benefits as state employees from being excluded because of their membership in the Teacher Retirement System of Texas. It does not make eligible all classified, administrative and professional staff people employed in those capacities by institutions of higher education.

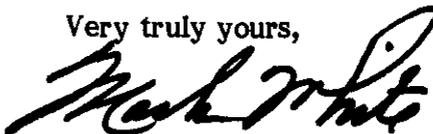
No person employed by Odessa College, a public Junior College, comes within article 6252-8a, V.T.C.S., because that statute applies only to "any appointed officer or employee in a department of the State" not otherwise excluded. Such persons are employed by the junior college district, not the state. Educ. Code §§ 130.001, et seq; Shepherd v. San Jacinto Junior College Dist., 363 S.W.2d 742 (Tex. 1963); Attorney General Opinion M-707 (1970). See Goss v. San Jacinto Junior College, 588 F.2d 96 (5th Cir. 1979); Hander v. San Jacinto Junior College, 519 F.2d 273, aff'd per curiam on rehearing, 522 F.2d 204 (5th Cir. 1975). Cf. Hart v. University of Texas at Houston, 474

F. Supp. 465 (S. D. Tex. 1979); Henry v. Texas Tech University, 466 F. Supp. 141 (N.D. Tex. 1979). Thus, whatever distinction the statute might make between "classified, administrative, and professional" staff members and others is of no consequence here. It is unnecessary, therefore, that we determine in this opinion whether that grouping would include faculty members employed by the college. Cf. Attorney General Opinion H-829 (1976).

S U M M A R Y

Article 6252-8a, V.T.C.S., does not apply to persons employed by Odessa College.

Very truly yours,



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