

Academic Component Institutions:
The University of Texas at Arlington
The University of Texas at Austin
The University of Texas at Brownsville
The University of Texas at Dallas
The University of Texas at El Paso
The University of Texas-Pan American
The University of Texas of the Permian Basin
The University of Texas at San Antonio
The University of Texas Institute of Texan Cultures at San Antonio
The University of Texas at Tyler



Health Component Institutions:
The University of Texas Southwestern Medical Center at Dallas
The University of Texas Medical Branch at Galveston
The University of Texas Health Science Center at Houston
The University of Texas Health Science Center at San Antonio
The University of Texas M.D. Anderson Cancer Center
The University of Texas Health Center at Tyler

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Opinion Committee

THE UNIVERSITY OF TEXAS SYSTEM

Office of General Counsel

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Ray Farabee
Vice Chancellor and
General Counsel

February 13, 1995

Honorable Dan Morales
Attorney General of Texas
Opinion Committee Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711

SJS
FILE # ML-31996-95
I.D. # 31996

Re: Request for Attorney General's Opinion Regarding Interpretation of the Provisions of Section 54.203, *Education Code*

Dear General Morales:

Section 54.203, *Education Code*, provides for an exemption from certain dues, fees and charges for certain veterans of the U.S. armed forces, who served during the Spanish-American War, World War I, World War II, the Korean War, and the Cold War. The statute does not provide an exemption for military service during any other periods.

The component institutions of The University of Texas System regularly receive applications from veterans of the armed services for the exemptions provided by this statute. However, there is no consensus as to what periods of active service qualify or what fees and charges come within the exemption.

According to the U.S. Department of Veterans Affairs, the official dates for the wars listed in the statute are as follows: Spanish-American War (4/21/98 - 7/4/02), World War I (4/6/17 - 11/11/18), World War II (12/7/41 - 12/31/46), Korean Conflict (6/27/50 - 1/31/55). While the VA does not officially recognize the "Cold War," it places it in the time period between the Korean conflict and the beginning of the Vietnam Era (1/31/55 - 8/5/64). Even though the provisions of Section 54.203 fail to provide a specific date for the "Cold War," apparently it is now conceded by all public officials that the Cold War period has ended.

Veterans who meet the service standards for the periods specified in the statute qualify for exemption under the provisions of Section 54.203 from the payment of all dues, fees and charges, including fees for correspondence courses but excluding property deposit fees, student services fees and any fees or charges for lodging, board or clothing. The enclosed, eight page document contains a summary of the various fees and charges made by the component institutions of The University of Texas System. As you can see, the list includes approximately fifty fees in twenty-three different categories.

It is the position of The University of Texas System that general property deposit fees, such as those authorized by Section 54.502, *Education Code* and the various student services fees authorized by Section 54.503, *Education Code*, are clearly not covered by the veteran's exemption and must be paid. In addition, general use fees charged to students under the authority of Chapter 55, *Education Code*; laboratory fees, charged to defray the cost of broken laboratory equipment and use of consumable supplies; certain incidental fees, if charged for student services or charged for lodging, board or clothing (such as uniform, graduation regalia, summer orientation or field trip fees); vehicle registration fees; parking and traffic enforcement fees; institution-specific student services fees such as student union fees, shuttle bus fees, gym renovation and recreational sports center fees, special arts and performance center fees; and additional student services fees such as the international education fee and the medical services fees are not within the exemption. Additionally, specific federal fees such as the administrative refunding fee charged under Title IV of the Higher Education Act are not exempted.

It appears that the matriculation fee authorized by Section 54.006, *Education Code*, the installment tuition handling fee and the installment tuition delinquency fee authorized by Section 54.007, *Education Code*, the graduate tuition fee (Section 54.008) and the various tuition charges authorized by the provisions of Section 54.051, as well as those incidental fees that are not charged for student services or lodging, board or clothing are within the scope of the statutory exemption. A fee charged for financing a permanent improvement would be exempted.

Based upon the foregoing discussion of the various statutory fees and the veteran's exemption statute, your opinion is requested on the following questions:

1. When did the Cold War end?
2. What are the periods of active service that qualify a veteran for the exemption under Section 54.203, *Education Code*?
3. What fees and charges are included in the statutory exemption?

Thank you for your assistance in helping The University of Texas System resolve these issues.

Honorable Dan Morales
February 13, 1995
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Very truly yours,



Ray Farabee

Enclosure: Summary of U.T. Fees

KRF:JRG:pm

xc: Mr. Don Minton
Ms. Francie Frederick
Mr. W. O. Shultz II
Mr. J. Robert Giddings

THE UNIVERSITY OF TEXAS SYSTEM
SUMMARY OF STATUTORY AUTHORITY FOR FEES & CHARGES

No institution of higher education may collect from students attending the institution any tuition, fee, or charge of any kind except as permitted by law [(Emphasis Added) (Texas Education Code Section 54.003)]

Thus, all charges and fees to students must fit into one of the following categories. (Those noted with an asterisk * require approval of the U. T. Board of Regents.)

A. State Law Authorizations (All references are to the Texas Education Code.)

1. Matriculation Fee [Section 54.006(a)]

A general academic teaching institution or a medical or dental unit may withhold from tuition \$15 if a student withdraws before the first class day. While the institution may be authorized to withhold this fee without authorization of the Board, the fee must receive administrative approval, be approved in the docket and be included in the institutional catalog.

**2. Installment Tuition Handling Fee* and
Installment Tuition Delinquency Fee***
[Section 54.007(b)]

These are "special" statutorily approved incidental fees and the Board of Regents must find that they reasonably reflect the cost to the institution of handling these payments.

3. Graduate Tuition* (Section 54.008)

The Board may set institutional graduate program tuition at rates equal to the minimum rates set by Section 54.051 of the Education Code but not in excess of twice the minimum rates. (The difference between the minimum rate and the rate set by the Board shall not be accounted for in an appropriations act to reduce the general revenue appropriations to an institution.)

4. Tuition (Section 54.051)

A. General Academic [Sections 54.051(c) and (d)]

B. Resident Student Thesis or Dissertation Only* (Section 54.051e)

- C. **M.D. degree program** (Section 54.051f)
- D. **D.D.S. degree program** (Section 54.051g)
- E. **Law School** (Section 54.051i)
- F. **Nursing program** (Section 54.051j)
- G. **Allied Health program** (Section 54.051j)
- H. **Certain Doctoral Students*** (Section 54.066)
The Board may charge a resident doctoral student with more hours of doctoral work than allowed for state funding at the tuition rate for nonresident doctoral students.

**5. Individual Coaching or Instruction Tuition* [Section 54.051(l)]
(Supplemental Fees)**

A charge in addition to regular tuition for student registered for art, architecture, drama, speech, or music where individual coaching or instruction is the usual method of instruction.

6. Residency Rule Noncompliance Penalty* (Section 54.061)

A governing board may assess a penalty not to exceed \$10 per semester for a nonresident student who fails to comply with Board rules on nonresident fees. It is unclear whether this statute has any applicability to U. T. institutions. If a U. T. institution charges or wishes to charge a fee under this statute, the Office of General Counsel will be asked to make a determination.

7. Laboratory Fees* [Section 54.501(a)]

A mandatory laboratory charge of not less than \$2 nor more than \$30 for any one semester or summer term for any student in any one laboratory course shall be made but must not exceed the cost of actual materials and supplies used by the student. Laboratory fees are sent to the Board for approval via institutional docketing procedures at the February meeting each year following prior review and approval by the appropriate Executive Vice Chancellor.

8. General Property Deposits* (Section 54.502)

These fees are sent to the Board for approval via U. T. System docket at the February meeting when changes are proposed. Prior review and approval by the appropriate Executive Vice Chancellor are required.

- A. **Loss or Breakage Deposit** -- [Section 54.502(a)] A mandatory reasonable deposit not to exceed \$10 shall be required from each student to insure against losses, damages, or breakage in libraries and laboratories.
- B. **U. T. System Medical/Dental and Allied Health Breakage or Loss Deposit** -- [Section 54.502(b)] Students at U. T. medical, dental and allied health units may be charged a breakage or loss deposit no greater than \$30.

9. Student Services Fees* (Section 54.503)

These fees may include textbook rentals, recreational activities, health and hospital services, medical services, intramural and intercollegiate athletics, artists and lecture series, cultural entertainment series, debating and oratorical activities, student publications, student government, the student fee advisory committee, student transportation services (not covered under other sections), and any other student activities and services specifically authorized and approved by the Board of Regents. The fees are collected to cover the cost of student services.

This fee statute requires input to the Board from a nine-member, student majority student fee advisory committee and the President of the institution concerning the student fee budget.

A. Compulsory Student Services Fees*

These fees are those charged to all students and may not exceed \$150 per one semester or summer session. The fees must be assessed in proportion to the number of semester credit hours for which a student registers. (No compulsory fee for parking or parking facilities may be levied.) Any increase of 10% over the previous academic year must be approved in a student vote or by a majority vote of the student government.

B. Voluntary Student Services Fees*

These fees are charged only to those students who make use of the service for which the fee is established.

10. Incidental Fees* (Section 54.504)

As described above, authorization is given in several sections of the Education Code for the Board of Regents to approve certain specified fees and charges. The only general authority under which an institution of higher education may collect fees from students is Section 54.504, Texas Education Code, commonly referred to as the Incidental Fee Statute. Incidental fees were first provided for in Section 65.44, Texas Education Code, enacted in

1983 and applicable only to U. T. components. Section 65.44 was repealed when Section 54.504 was enacted as a general statute applicable to all public institutions of higher education in 1985.

The Board may consult with a student fee advisory committee prior to fixing incidental fees for services such as, but not limited to, late registration fees, library fines, microfilming fees, thesis or doctoral manuscript reproduction or filing fees, bad check charges, application processing fees, and laboratory breakage charges.

These fees are sent to the Board for approval each year via U. T. System docket at the February meeting based on prior review and approval by the appropriate Executive Vice Chancellor.

NOTES APPLICABLE TO INCIDENTAL FEES:

1. No incidental fee may be levied if the Board currently makes a charge for the same material or service under authorization of other law.
2. Components may not assess overlapping laboratory and incidental fees covering the same academic discipline or course.
3. The incidental fee must be described in the institutional catalog.
4. The amount of the fee must reasonably reflect the actual cost to the university of the materials and services for which the fee is collected.
5. Incidental fees are accounted for as other designated funds.

**11. Vehicle Registration Fee* [Section 54.505(a)] and
Parking & Traffic Enforcement Fees* [Section 54.505(b)]**

Reasonable vehicle registration fees and a reasonable fee or fees for the provision of facilities and the enforcement and administration of parking and traffic regulations may be fixed by the Board. No facilities fee may be charged to a student unless the student desires to use the facilities. Proposed fee changes are submitted to the Board for approval via Agenda Item.

12. Medical Services Fee* (Section 54.50891)

The Board may charge a fee not to exceed \$55 for semester and \$25 for each six-week or shorter summer term. The fee may be used only to provide medical services to registered students and may be charged only after students and administrators have an opportunity to offer recommendations on the type and scope of services to be provided.

13. International Education Fee* (Section 54.5132)

The Board may collect a fee of \$1 per student per semester or summer session for funding an international education financial aid fund.

14. Student Union Fees* (Section 54.515)

The Board may charge a student union fee not to exceed \$20 per regular semester and \$10 per summer term to finance, construct, operate, maintain and improve a student union building. The fee may be imposed or increased above \$10 per regular semester and \$5 per summer term only after majority approval by students participating in a general election. This statute is not applicable to components that have special student union fees.

15. Financing Permanent Improvements* (Chapter 55)

Generally, this chapter of the Texas Education Code provides for the ability to finance permanent improvements out of fees, charges, retained tuition, etc. It also provides for the general authority to charge rates for occupancy of university owned dormitories, apartments, etc. Moreover, it provides for a "general use fee" to be charged to students. The fee is fixed and collected in proportion to the number of semester hours for which the student registers, not to exceed \$12 per semester hour, except for schools charging more as of May 1, 1975 or receiving specific legislative authorization to charge more.

16. U. T. Arlington Special Fees

A. Shuttle Bus Fee* (Section 54.512)

The Board may levy a shuttle bus fee not to exceed \$10 per regular session and \$5 per summer term for the sole purpose of financing shuttle bus service.

B. Student Union Fee* (Section 54.529)

The Board may levy a student union fee not to exceed \$39 per student for each regular semester or \$19.50 per student for each summer term. No increase above \$15 and \$7.50, respectively, may be made unless approved by a majority vote at a student general election.

17. U. T. Austin Special Fees

A. Student Recreational Sports Fee* (Section 54.510)

The Board may set a fee of up to \$20 per semester or 12-week summer session or \$10 for a 6-week summer session when a campus recreational sports facility is available for use. This fee is not counted

in determining the maximum fee under Section 54.513. The fee for a particular facility may only be collected for 20 years or until the bonds for financing the facility have been paid off, whichever occurs first.

- B. **Student Services Fees*** (Section 54.513)
After appropriate consideration of the recommendations of the student fees advisory committee, the President recommends to the Board compulsory and voluntary student services fees for U. T. Austin. The total of all compulsory student services fees may not exceed \$150 for any semester or summer session.
- C. **International Education Fee*** (Section 54.5131)
The Board may collect a fee of \$1 per student per semester or summer session for funding an international education financial aid fund.
- D. **U. T. Austin Union*** (Section 54.530)
A compulsory fee not to exceed \$33 for regular session and \$16.50 for each summer session term may be levied to finance Union activities available to the entire student body. The fee may be raised to \$40 for regular session and \$20 for a summer session term after approval by a majority vote of students participating in a general election.
- E. **Student Health Services Building Fee*** (Section 54.536)
The Board may set a fee of up to \$8 per semester or 12-week summer session, \$6 per 9-week summer session or \$4 per 6-week summer session to finance renovation, improvement, or replacement of the student health center building.
- F. **Student Services Building Fee*** (Section 54.537)
The Board may set a fee not to exceed \$1.10 per "registered semester hour" to finance the construction, repair, maintenance, renovation, improvement, or replacement of a student services building. The fee may not be imposed until the semester in which the building is available for use.
- G. **Gymnasium Renovation Fee*** (Section 54.5371)
The Board may charge a fee not to exceed \$1.90 per credit hour per semester or 12-week summer session or \$0.95 per credit hour per 6-week summer session to finance, renovate, operate, maintain or improve Gregory Gymnasium. The fee may not be collected until the semester in which the gym has been substantially renovated and is available for use.

18. **U. T. Dallas Student Union Special Fee*** (Section 54.531)

The Board may levy a student union fee not to exceed \$60 per student for each regular session or \$40 per student for each summer term. The fee may not be increased above \$40 and \$26.67, respectively, unless approved by a majority vote of students participating in a general election. The fee is in addition to other use or service fees.

19. **U. T. El Paso Special Fees**

A. **Student Union Fee*** (Section 54.535)

The Board may levy a student union fee not to exceed \$30 per student for each regular session or \$15 per student for each summer term; however, the fee may be increased above \$15 or \$7.50, respectively, only after approval by majority vote of those students participating in a general election. The fee is in addition to other use or service fees.

B. **Recreational Facility Fee*** (Section 54.541⁺)

The Board may charge a recreational facility fee not to exceed \$12 per student per semester or summer session for financing, constructing, operating, maintaining and improving new and existing recreational sports facilities and programs. The fee may be levied only after the fee is approved and the amount set by a majority of the students participating in a general election.

20. **U. T. Pan American Special Student Union Building Fee*** (Section 54.541⁺)

The Board may levy a student union fee not to exceed \$30 for each student for each regular semester or \$15 for each student for each summer session term for the purpose of financing, constructing, operating, maintaining, and improving a student union building. The fee may not be levied or increased unless the levy or increase is approved by a majority vote of students participating in a general election.

21. **U. T. San Antonio Special Fees**

A. **Student Union Fee*** (Section 54.532)

The Board may levy a student union fee not to exceed \$30 per student for each regular session or \$15.00 per student for each summer term. The fee is in addition to other use or service fees and may be levied only after an affirmative vote of the student body voting. Fees increases may be made only after approval by a majority of the students voting in a student referendum on the issue of the increase.

B. **Recreational Facility Fee*** (Section 54.541⁺)

The Board may charge a recreational facility fee not to exceed \$30 per student for each semester or regular term or summer session to finance, construct, operate, maintain or improve student recreational facilities. The fee may be charged only after approval by a majority of students voting in a general election.

22. **U. T. Tyler Special Arts and Performance Center Fee*** (Section 54.534)

The Board may levy an arts and performance center fee not to exceed \$20 per student for each regular session or \$10 per student for each summer term. The fee may not be increased above \$30 and \$15, respectively, unless approved by a majority vote of students participating in a general election. The fee is in addition to other use or service fees.

B. **Federal Law Authorizations**

Administrative Refunding Fee (Public Law 89-329, Title IV, as added by Public Law 102-325, Title IV, Section 485. Codified as 20 U.S.C. 1091b)

A reasonable administrative fee not to exceed the lesser of five percent of tuition, fees, room and board and other charges assessed for the enrollment period, or one hundred dollars may be assessed to certain students in Title IV Programs who withdraw from school.

⁺Repeated Section numbers; awaiting codification.