



1507-A

OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MARK  
ATTORNEY GENERAL

Honorable B.M. Whiteacre  
County Auditor  
Grayson County  
Sherman, Texas

Dear Sir:

Opinion No. 0-1507-A  
Re: Authority of Assistant County  
School Superintendent to sign checks,  
Liability of depository bank.

We have received your letter dated October 25, 1940, wherein you undertake to point out certain inconsistencies or conflicting statements in our Opinion No. 0-1507, and, in effect, request a reconsideration of this opinion. You also request our opinion upon the additional question:

"Would the depository bank be liable in paying vouchers signed by the County School Superintendent's Assistant?"

Your letter reads:

"Please furnish me a written opinion on the following proposition:

"Would the Assistant County School Superintendent be authorized to sign the name of the County School Superintendent approving vouchers given by the Common School Trustees?"

"This office is cognizant of Opinion No. 0-1507 which holds that 'vouchers issued by the Trustees of the Common School District may legally be approved and signed only by the County Superintendent. However if the County Superintendent approves the vouchers, his Assistant, upon proper instructions, may perform the physical act of signing the County Superintendent's name to the vouchers.'

"This to me is a conflicting opinion, the first sentence holding that only the County Superintendent may legally sign a voucher, and the second sentence modifying the first and holding that the physical act of signing may be done by the Assistant.

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"I cannot see how it would be possible to determine wherein the County Superintendent had actually approved a voucher if such voucher was signed by his Assistant.

"Would the depository bank be liable in paying vouchers signed by the County School Superintendent's Assistant?"

We have reconsidered Opinion No. G-1507, and fail to find in what respect it is inconsistent. As pointed out in that opinion, the signing of the vouchers by the Assistant County School Superintendent under the circumstances set forth in the request for the opinion carried with it the authority to approve such vouchers. This opinion holds, in effect, that only the County School Superintendent in person may legally approve vouchers issued by the trustees of a Common School District, but that after the vouchers have been approved by the County School Superintendent, the mere physical act of signing the superintendent's name to the vouchers, being a purely ministerial or mechanical act requiring no exercise of judgment or discretion, may be delegated to and performed by the Assistant County School Superintendent. This opinion, a copy of which is enclosed herewith for your information, we think properly disposes of your first question.

With reference to your second question, if the vouchers involved are first approved by the County School Superintendent, personally, then if the Superintendent's name is signed by the Assistant Superintendent, it is clear that the depository bank would not be liable in paying same. This presents the question suggested by you as to how it will be possible for the depository bank to determine if the vouchers have been approved by the Superintendent if such vouchers are signed by the assistant. It is the responsibility of the depository bank to determine that such vouchers have been approved by the County School Superintendent.

Very truly yours

APPROVED DEC 18, 1940

*Gerald M. Mann*  
ATTORNEY GENERAL OF TEXAS

ATTORNEY GENERAL OF TEXAS

BY *D. Burle Davis*

D. Burle Davis  
Assistant

DED:AV

