



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. L. A. Woods
State Superintendent of Public Instruction
Austin, Texas

Dear Sir:

Opinion No. O-2284
Re: Election of teachers in consol-
idated school district.

We are in receipt of your letter of April 24, 1940, requesting an opinion by this department which reads as follows:

"When school districts are consolidated under the provisions of Article 2806 the County Board of Trustees shall, under the provisions of Article 2774a, Section 3, appoint a board of seven trustees for the consolidated district. These trustees shall serve until the next regular trustee election. Article 2809 states that the board of trustees so elected shall employ a superintendent for the district for one year or two years as the trustees may determine and who, in addition to his duties as superintendent, shall be a teacher in one of the elementary schools or the high school of the district. The statute states further that the board shall employ teachers for one or two years as the trustees may decide.

"Under the provisions of the above mentioned statutes controlling the consolidation, can the appointed board of trustees elect teachers or must the election of teachers wait until the newly elected board has taken charge of the consolidated school district?"

Article 2806, R.C.S., 1925, as amended, Acts 1931, p. 182, authorizes the consolidation of school districts and provides that such districts formed by consol-

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idating a common school district and an independent district shall be managed by the existing board of trustees of the independent school district. It further provides that: "When two or more independent districts are consolidated, the county board of trustees shall designate the name by which said district shall be known, and shall appoint a board of seven trustees for the said consolidated district, to serve until the next regular election of trustees, as prescribed by General Law, at which time the district shall elect a board of seven trustees, whose powers, duties and terms of office shall be in accordance with the provisions of the General Law governing independent districts, as they now exist or may hereafter be enacted."

Article 2808, R.C.S., 1925, provides, in part, as follows:

"The board of county school trustees at its next meeting after such consolidation of school districts is declared, shall appoint a board of seven trustees for the consolidated district. * * * The terms of office of three of the trustees so appointed shall expire on the first day of May next following their appointment, and the terms of office of the other four trustees shall expire on the first day of May of the succeeding year, as those so appointed shall determine by lot. Each year thereafter alternately three trustees and four trustees shall be elected by the qualified voters of the district on the first Saturday of April and trustees so elected shall enter upon the discharge of their duties on the first day of May next following and serve for a term of two years thereafter. * * * "

Article 2809, R.C.S., 1925, reads as follows:

"The board of trustees so elected shall employ a superintendent for the district, who shall be elected for one year or for two years as the trustees may determine; and who, in addition to his duties as superintendent, shall be a teacher in one of the elementary schools

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or the high school of the district. Acting in collaboration with the district superintendent, the board of trustees shall employ teachers for the several elementary schools of the district, or for the departments of the high school, which teachers shall be elected for one year or two years as the trustees decide, and they shall serve under the direction and supervision of the district superintendent. Contracts between the trustees and the district superintendent and teachers shall be in writing and subject to the approval of the county superintendent of the county wherein such district is situated."

Acts 1930, 41st Leg., 5th C.S., p. 212, ch. 66, Sec. 3, (Art. 2774a, Sec. 3, Vernon's Texas Civil Statutes) reads, in part, as follows:

"Sec. 3. The board of county school trustees at its next meeting after the consolidation of school districts is declared shall appoint a board of seven trustees for the consolidated district. * * * Those elected at the first election shall determine by lot the term for which they are to serve. The three members drawing numbers one, two and three shall serve for one year, the two members drawing numbers four and five shall serve for two years and the two members drawing numbers six and seven shall serve for three years, or until their successors are elected and qualified; and regularly thereafter on the first Saturday in April of each year three trustees or two trustees shall be elected for a term of three years to succeed the trustees whose term shall at that time expire.
* * * "

Acts 1937, ch. 267, p. 541, reads, in part, as follows:

"Art. 2750a. (Vernon's Texas Civil Statutes)
That trustees of any common school district or consolidated common school district shall have authority to make contracts for a period of time not in excess of two (2) years with principals, superintendents, and teachers of said common school districts, provided that such contracts shall be

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approved by the County Superintendent. * * *

Articles 2808 and 2809 were originally enacted as sections 3 and 5 respectively of H.B. No. 148, ch. 65, Acts 1919, 2nd C.S., p. 167. It will be noted that under Article 2808 a majority of the trustees on the board would not be "elected" until the second trustee election after the consolidation. We think it is clear that the expression; "The board of trustees so elected," in Article 2809 was not intended to be construed as a limitation upon the authority of the first trustees but was used merely as a reference to the preceding sections. Otherwise there would be a period of from one to two years after the consolidation that the board of trustees could not employ or contract with teachers for the district.

If under subsequent statutes or amendments the original trustees appointed by the County Board are to serve only until the next general trustee election, we do not think this would have the effect of converting the language of Article 2809 into a limitation. Assume that two districts are consolidated in July and seven trustees are appointed to serve until the next trustee election to be held the following April. Obviously the purpose in providing for the immediate appointment of a board, was to furnish a governing body for the district capable of managing its affairs so that it may function. If it was intended that the appointed board should not have authority to elect and employ teachers, practically a full school year might pass before teachers could be employed for the schools of the district.

It is our opinion that the first appointed board of trustees, for a consolidated school district is authorized to elect and contract with teachers for the schools of the district and it is not necessary to wait until the subsequently elected board has taken charge of the consolidated district before employing teachers.

Yours very truly

ATTORNEY GENERAL OF TEXAS

BY *Cecil C. Cammack*
Cecil C. CAMMACK
Assistant

APPROVED MAY 2, 1940

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ATTORNEY GENERAL OF TEXAS



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