



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Jos. B. Dart  
County Attorney  
Kendall County  
Boerne, Texas

Dear Sir:

Opinion No. 0-5359  
Re: Schools for negro children.

This is in reply to your letter, in which you say:

"Our County Judge, Hon. B. H. Balsler, has asked me to advise him on the following matter:

"We have within the limits of the Boerne Independent School District four negro children, children of transient war workers. We have a school building which was used several years ago for colored children but no provision has been made for a teacher. He wants to know if it is obligatory on the School Board to furnish a teacher for these four colored children.

"Art. 2900 R. S. provides that '. . . public school funds of this State shall be appropriated in each county for the education alike of white and colored children, and impartial provisions shall be made for both races. No white children shall attend schools supported for colored children, nor shall any colored children attend schools supported for white children.

. . .'

"Art. 2901 provides that 'Every child in this State of scholastic age shall be permitted to attend the public free schools of the district or independent district in which it resides at the time it applies for admission,

. . .'

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"Art. 2902 provides that 'All children, without regard to color, over six years of age and under eighteen years of age at the beginning of any scholastic year, shall be included in the scholastic census and shall be entitled to the benefit of the public school fund for that year. . . .'

"I am unable to find any decisions bearing on the question, and have accordingly advised the County Judge that provision must be made to take care of these four negroes.

"Will you kindly advise me if, in your opinion, my advice is correct?"

You have correctly quoted the pertinent parts of the Texas statutes concerning this question, and, therefore, we will not repeat those statutes.

Under the above statutes, it is our opinion that you have correctly advised Judge Balser. This conclusion is also supported by the following authorities:

Mills v. Board of Education of Anne Arundel County, 30 Fed. Supp. 245;

Missouri ex rel Gaines v. Canada, 83 L. Ed. 208.

Very truly yours

ATTORNEY GENERAL OF TEXAS

*Wm. J. Fanning*

By

Wm. J. Fanning  
Assistant

WJF:db

APPROVED JUL 9 1948  
*George C. Mann*

ATTORNEY GENERAL OF TEXAS

