



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable J. A. Belger
County Auditor
Travis County
Austin, Texas

Dear Sir:

Opinion No. 0-5386

Re: Is the commissioners' court
of Travis County authorized
to expend county funds for
Austin Community Nursery
School?

Your request for opinion upon the above stated question has been received and carefully considered by this department.

Pursuant to our request for additional information with respect to the above question on June 18th inst., you wrote us in part as follows:

"Answering your letter of June 16th, 1943, re opinion request No. 0-5386, Austin Community Nursery School, please be advised that, as I understand, the Austin Community Nursery School is a group of Austin men and women, organized for the specific purpose of sponsoring and maintaining nursery schools with funds collected from various sources. These nursery schools, as I understand, are to be maintained for the care and teaching of children whose parent or parents are engaged in a gainful occupation. It is my understanding also that the child or children of a parent or parents who is not engaged in a gainful occupation are not eligible to be taken into the Austin Community Nursery School. It is my understanding that the parent or parents of the children cared for and taught by the Austin Community Nursery School are required to pay fifteen or twenty cents per day for the maintenance and teaching of each child in said Nursery School, as shown by the budget sent you with my request for opinion on this matter, although I am

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informed that in cases of low-wage bracket parents this per diem fee is sometimes waived, as to the parents, by those in charge of the Austin Community Nursery School, but paid by some other person or organization.

"Children admitted into these Nursery Schools are cared for and taught by said Schools only during the daytime and are returned to their parent or parents during the evening and nighttime.

"I do not know upon what statutory provision this grant of aid is sought."

We quote from 11 Texas Jurisprudence, pages 563-4-5, as follows:

". . . Counties, being component parts of the state, have no powers or duties except those which are clearly set forth and defined in the Constitution and statutes. The statutes have clearly defined the powers, prescribed the duties, and imposed the liabilities of the commissioners' courts, the medium through which the counties act, and from those statutes must come all the authority vested in the counties. . . .

". . . Commissioners' courts are courts of limited jurisdiction, in that their authority extends only to matters pertaining to the general welfare of their respective counties and that their powers are only those expressly or impliedly conferred upon them by law, - that is, by the Constitution and statutes of this state. . . ."

We have been unable to find any constitutional or statutory authority authorizing Travis County to donate county funds in aid of such project.

Section 52 of Article 3, of our State Constitution, would also prohibit Travis County from making such donation of county funds. The section provides in part as follows:

"The Legislature has no power to authorize any county . . . of the State to lend its credit or to grant public money or thing of value in aid of or to any individual, association, or corporation whatsoever. . . ."

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We therefore answer your question in the negative.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED JUN 24, 1943
Ernest C. Bell
FIRST ASSISTANT
ATTORNEY GENERAL

By *Wm. J. Fanning*
Wm. J. Fanning
Assistant

WJF:db

APPROVED
OPINION
COMMITTEE
BY *BW*
CHANCELLER