



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS

Gerald C. Mann
~~PRICE DANIEL~~
ATTORNEY GENERAL

Hon. T. M. Trimble, First Assistant
State Superintendent
Austin, Texas

Dear Sir:

Opinion Number 0-5634
Re: Are the transfers of children authorized and certified by the State Department of Education by August 15th cancelled, annulled, and of no effect as against the contracts spoken of in the Equalization Law, which contracts are filed in said office by September 10?

We are in receipt of your letter of September 23rd requesting our opinion on the above captioned question. We quote your letter as follows:

"Article 2696 of the Revised Civil Statutes provides for the transfer of children upon application of the parent, which is made to the county superintendent by August 1st of each calendar year. The scholastic census is authorized to be taken of each school district of the State during the month of March. The census rolls are then filed with the State Department of Education by July 1st, and transfers which are made according to the provisions of Article 2696 are filed with this office by August 15th.

"House Bill No. 176, enacted by the 45th Legislature, which is the Equalization Law, provides for reimbursement for certain districts authorized to contract to other school districts according to the provisions of said law. Such contracts are filed with this office on or before September 10th.

"We need an early answer to the following question, and would appreciate your immediate attention to this matter, since the entire fiscal set-up of the State is dependent upon your answer:

"Are the transfers authorized and certified by this office by August 15th cancelled, annulled, and of no effect as against the contracts spoken of in the Equalization Law, which contracts are filed in this office by September 10th?"

Hon. T. M. Trimble, page #2

"It is our construction that the contracts can only affect those children in the district at the time the contracts are consummated."

Replying to the above, we respectfully call your attention to opinions numbered 0-4855 and 0-4855a.

Article 2696 reads as follows:

"Any child lawfully enrolled in any district or independent district, may by order of the county superintendent, be transferred to the enrollment of any other district or independent district in the same county upon a written application of the parent or guardian or person having lawful control of such child, filed with the county superintendent; provided that any district or independent district being dissatisfied with any transfer made by the county superintendent may appeal from such action to the county board of trustees of said county who shall have the right to annul and cancel the transfer allowed by the county superintendent.

"The applicant shall state in said application that it is his bona fide intention to send said child to the school to which the transfer is asked.

"Upon the certification of the transfer of any child, from one district to another district, by the county superintendent of the county in which the child resides at the time of the transfer, the State Department of Education shall authorize the State Treasurer to pay over directly the per capita apportionment, in independent districts of five hundred (500) or more scholastic population, to the district to which such child is transferred; and in all other districts, to county superintendents, to be paid by him to the respective districts to which such children are transferred; provided, no transfer shall be made after August 1st, Acts 1905, p. 263; Acts 1935, 44th Leg., p. 488, ch. 201, sec. 1."

Children transferred out of a district prior to August 1 are no longer on the scholastic enrollment of their home districts, but are on the enrollment of the receiving district, and are not included in a transfer contract made thereafter; and your question is so answered.

Very truly yours
ATTORNEY GENERAL OF TEXAS
By /s/ C. F. Gibson
Assistant

APPROVED OCT. 14, 1943

/s/ Grover Sellers

FIRST ASSISTANT ATTORNEY GENERAL,

APPROVED OPINION COMMITTEE, By B