



**THE ATTORNEY GENERAL  
OF TEXAS**

GROVER SELLERS

AUSTIN 11, TEXAS

Honorable Paul H. Stanford  
Criminal District Attorney  
Canton, Texas

Dear Sir:

Opinion No. O-6214

Re: Filling a vacancy on the board  
of trustees in an incorporated  
district having fewer than 150  
scholastics.

We have your letter of recent date reading as follows:

"Article 2763, Revised Civil Statutes, provides: 'All incorporated districts having each fewer than one hundred and fifty scholastics, according to the latest census, shall be governed in the general administration of their schools by the laws which apply to common school districts; and all funds of such districts shall be kept in the county depositories and paid out on order of the trustees, approved by the county superintendent.'

"Article 2745, Revised Civil Statutes, provides: '. . . All vacancies shall be filled by the County Board of Trustees for the remainder of the term in which the vacancy occurs.'

"Question: Where a vacancy occurs in the Board of Trustees of an incorporated district, having fewer than one hundred and fifty scholastics according to the latest census, shall the vacancy be filled by the County Board of Trustees or shall it be filled by the remaining members of the Board of Trustees of such incorporated (independent) school district?

"The above articles are referred to as bearing on the question above. . . ."

We think Article 2745 deals exclusively with common school districts having three trustees. It is true that Article 2763, provides:

"All incorporated districts, having each fewer than one hundred and fifty scholastics, according to the latest census, shall be governed in the general administration of their schools by the laws which apply to common school districts; and all funds of such districts shall be kept in the county depositories and paid out on order of the trustees approved by the county superintendent."

The foregoing article does not change the name of the independent school district nor convert it into a common school district. Such districts,

Hon. Paul H. Stanford, page 2 (O-6214)

although they may have fewer than one hundred and fifty scholastics, continue their corporate existence, and in the issuance of bonds and the levy of taxes, are governed by the laws governing independent school districts.

Article 2777 provides that "the members of the Board remaining after a vacancy shall fill the same for the unexpired term."

We think that this article would apply to any independent school district, and you are therefore advised that in our opinion a vacancy in the board of trustees of an independent school district having fewer than one hundred and fifty scholastics should be filled by the members of the board remaining after a vacancy, for the unexpired term.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ C.F. Gibson

C.F. Gibson  
Assistant

APPROVED SEPT. 27, 1944  
/s/ Grover Sellers  
ATTORNEY GENERAL OF TEXAS

CFG:EP:egw

APPROVED:  
OPINION COMMITTEE  
By B W B - Chairman