



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

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

Dear Sir:

Opinion No. C-6308
Re: Does Article 4, Section 2,
of the current Equalization
Law, which requires that all
reports be in the State De-
partment of Education Office
not later than June 1, con-
trol in regard to pupils
living in a contracted dis-
trict, as authorized under
Article 8 of the same law?

We have your opinion request reading as follows:

"I have this problem about which I have
been requested by Superintendent S. R. LeMay of Athens
to ask your opinion and advice in order that the law
may be followed:

"The Athens School contracted with Baxter
and Mill Run Districts in Henderson County for the
year 1943-1944. Since the per capita cost of operat-
ing the colored school did not exceed the state avail-
able fund, the superintendent did not turn in a tui-
tion report on children living in those districts and
attending the elementary colored school at Athens.
Apparently the misunderstanding was due to the fact
that he felt he had already received the per capita
and that this would cover the cost of instruction, and
he was not in possession of the information that the
per capita was included as receipts in the sending
district budget and that he would have to turn in a re-
port to off-set this. When he discovered this, it was
after June 1, the time for turning in a report for high
school. As a matter of fact, he turned in a report on
August 16 on elementary colored pupils. Does Article 4,
Section 2 of the current Equalization law, which re-
quires that all reports be in this office not later

Honorable L. A. Wood, page 2

than June 1, control in regard to pupils living in a contracted district, as authorized under Article 8 of the same law? Stated differently, is this office authorized to accept the report on such elementary pupils, which reach this office on August 16 and to make a grant on same? ***"

Section 2 of Article 4 of the current Equalization law reads as follows:

"It shall be the duty of the county superintendent to receive and check all high school tuition applications to determine the following facts: age of pupil, the district in which he was enumerated, the district in which he lives, the district in which he attends school, the grade in which the pupil is classified in the receiving district, the highest grade taught in the home district of the pupil, and the amount of time the pupil was in actual attendance at the receiving school. When such application has been reviewed and checked as herein provided, same shall be properly sworn to by said county superintendent, the president and/or secretary of the school board of the sending district of the pupil, and the superintendent of the receiving school, before said application is transmitted to the Director of Equalization at Austin, Texas, for his rejection, modification, or approval, and no such application shall be considered by the Director of Equalization unless same has been duly deposited with him at Austin, Texas, within sixty (60) days after his request for same, and in no instance later than June 1 of the current school year."
(Emphasis supplied)

Article 8 of said law reads as follows:

"Upon the agreement of the board of trustees of the districts concerned or on petition signed by a majority of the qualified voters of the district and subject to the approval of the county superintendent, and the State Superintendent, a district which may be unable to maintain a satisfactory school may transfer its entire scholastic enrollment for one year to an accredited school of higher rank. If the receiving school

Honorable L. A. Good, page 3

receives State aid, the scholastic census rolls both white and colored shall be combined, the per capita apportionment shall be paid direct to the receiving school, all local taxes of the sending contracting district, except those going to the interest and sinking fund shall be credited to the receiving school by the tax collector as collected, and the teacher-pupil quota shall be based on the combined census total. If the receiving school is not a State aid school, the scholastic census rolls both white and colored shall be combined, the per capita apportionment shall be paid direct to the receiving school, all local taxes of the sending contracting district except those going to the interest and sinking fund shall be credited to the receiving school by the tax collector as collected, and the sending contracting district will be eligible for as much salary aid as is necessary to supplement the State Available and Local Maintenance Funds, on the ~~scholastics from the sending district attending a school~~ in the receiving district, to cover the approved cost of instruction per scholastic in the receiving school, provided that such approved cost shall not exceed Seven Dollars and Fifty Cents (\$7.50) per month for five (5) months for high school students or Five Dollars (\$5.00) per month for five (5) months for elementary students."

Section 2 of Article 4, supra, refers to and is applicable to high school applications and has no reference to applications for elementary tuition mentioned in Article 8. It seems that there is no dead line date fixed by this latter article and your office is authorized to accept the report on such elementary pupils which reach your office on August 16 and to make a grant on same if the money is still available.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (Signed)

C. F. Gibson
Assistant

GFG:EP:ZA

APPROVED DEC 14, 1944

CARLOS CL ASHBY

FIRST ASSISTANT ATTORNEY GENERAL

APPROVED OPINION COMMITTEE BY
GWB CHAIRMAN