



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. 0-6501

Re: Whether textbooks adopted as  
physiologies may be supplied  
to the public schools of this  
State as textbooks to be used  
for instruction in health and  
physical education classes.

Your request for opinion has been received and  
carefully considered. We quote from your request as follows:

"We should like to have your opinion  
with respect to the following question:

"May textbooks adopted as physiologies  
be supplied to the public schools of this  
State as text books to be used for in-  
struction in health and physical education  
classes?"

"The attached statement is submitted  
in the hope that it may be helpful. In it we  
have attempted to set out those pertinent aspects  
of the law and departmental practices which apply  
to the present situation with regard to the teach-  
ing of physiology and health and physical education."

The statement attached to your letter reads as  
follows:

Hon. L. A. Woods - Page 2

**"STATEMENT CONCERNING STATUTORY PROVISIONS AND DEPARTMENTAL PRACTICES IN REGARD TO THE TEACHING OF PHYSIOLOGY AND PHYSICAL TRAINING AND SUPPLYING TEXTBOOKS FOR THESE SUBJECT.**

"The State Department of Education is confronted with a problem in connection with the distribution of State-adopted books in physiology and physical education. Under Article 2843, Revised Civil Statutes of 1925, there is a definite provision for a textbook in the subject of physiology for the high school grades under the multiple list provision of the law. Article 2663a, Sec. 1, provides:

"That instruction in physical education shall be established and made part of the course of instruction and training in the public elementary and secondary schools of the State by September 1, 1930."

Article 2663a, Sec. 2, states:

"The State Superintendent of Public Instruction shall prepare courses of instruction for the public schools of the State for the purpose of carrying out this Act."

"Within recent months there has been established within the State Department of Education a Division of Health and Physical Education, the primary purpose of which is to encourage better courses in health and physical education throughout all the grades of the school with particular emphasis upon physical training courses in the last two years of the high school. The Division of Supervision and Curriculum of the State Department of Education in its latest bulletin recommends that physiology be taught at the ninth grade level as a credit course and that health and physical education be taught at the eleventh or twelfth grade levels as a credit course.

"Many local school officials now are requesting the

Hon. L. A. Woods - Page 3

State Department of Education to supply them with textbooks in physiology (a textbook that is specifically provided for in Article 2843) and also with textbooks for courses in health and physical education to be offered at the eleventh and twelfth grade levels. (NO textbook in health and physical education is specifically provided for in the Statutes although Article 2663a, Sec. 1, prescribes instruction in physical education.)

"Of the five books on the multiple list of texts which were adopted by the State Board of Education, several of them are primarily texts in Health and Physical Education instead of being primarily texts in Physiology. The study of physiology is steadily decreasing and the study of health and physical education is steadily and rapidly increasing in the public schools of the State. It would be highly desirable if textbooks could be supplied for instruction in health and physical education. There is no question about textbooks for physiology, since this subject is specifically listed in the Statutes."

Article 2843, Vernon's Annotated Texas Civil Statutes reads as follows:

"Art. 2843. Uniform system

"The Textbook Commission authorized by this Act shall have authority to select and adopt a uniform system of textbooks to be used in the public free schools of Texas, and the books so selected and adopted shall be printed in the English language, and shall include and be limited to textbooks on the following subjects: spelling, reading, English language and grammar, geography, arithmetic, physiology-hygiene, civil government, history of the United States (in which the construction placed on the Federal Constitution by the fathers of the Confederacy shall be fairly represented), history of Texas, agriculture, a system of writing books, a system of drawing books, and may also, if deemed necessary, adopt a geography of Texas and a civil government of Texas; provided that none of said books shall contain anything of a partisan or sectarian character, and that nothing in this Act shall be construed to prevent the teaching of German, Bohemian, Spanish, French, Latin, or

Hon. L. A. Woods - Page 4

Greek in any of the public schools.

"Said Textbook Commission shall also adopt a multiple list of books for use in the high schools of the State, said multiple list including not fewer than three (3) nor more than five (5) textbooks on the following subjects: algebra, plane geometry, solid geometry, general science, biology, physics, chemistry, a one-year general history, ancient history, modern history, American history, Latin, Spanish, physical geography, English Composition, history of American literature, history of English literature, physiology, agriculture, and civil government and for each high school branch of study any one or several of the textbooks of said multiple list adopted for the subject may be selected; provided, however, that the several textbooks do not exceed the allowable number equivalent to one textbook for and used in any high school as the textbook or in such a branch in that high school, but when such book or books is or are so chosen by local authorities from the multiple list adopted such book or books shall be continued in that high school for the entire five (5) years of the adoption period. Provided, however, that the multiple list herein provided for shall apply to all high schools classed by the Department of Education as high schools of the first class. For use in all other high schools a uniform system of textbooks on each subject mentioned above shall be selected by the commission; provided, that in any city or independent school district having more than one high school of the first class said city or independent school district shall adopt from said multiple list for use in each of said high schools the same books and shall use said books so adopted for a period of not less than five (5) years.

"Specific rules as to the manner of the selection of books by the high school shall be made by the State Textbook Commission.

"The commission, as herein provided for, shall adopt textbooks in accordance with the provisions of this Act for every public free school in this State and no public free school in this State shall use any textbook unless same has been previously adopted and approved by this commission; and the commission shall prescribe rules under which all textbooks adopted and approved shall be introduced or

Hon. L. A. Woods - Page 5

used by or in the public schools of the State.

"In the event as many as three suitable texts are not offered for adoption on any one subject, the commission may select fewer than three (3) texts.

"Existing contracts shall not be affected by any adoptions made under this Act. As amended Acts 1941, 47th. Leg. p. 1388, ch. 627, Sec. 1."

48 Corpus Juris, p. 1178, defines the term "physiology" as follows:

"Physiology. The science of the functions of all the different parts and organs of animals and plants, the offices they perform in the economy of the individual, their properties, etc."

Webster's New International Dictionary, Second Edition, defines the term "physiology" as follows:

"The branch of biology dealing with the processes, activities and phenomena incidental to and characteristic of life or of living organisms; the study of the functions of the organs, tissues, cells, etc. during life, as distinct from anatomy, which deals with their structure. The final analysis of these processes and phenomena is mainly physical and chemical. The phenomena of mental life are usually regarded as outside the ordinary scope of physiology."

Corpus Juris Secundum, Vol. 42, p. 368, defines the term "hygiene" as follows:

"Hygiene. A noun derived from the Greek word 'Hygeia'; a system of principles and rules designed for the promotion of health."

Corpus Juris, Vol. 19, p. 1015, defines "physical education" as follows:

"Physical Education - The term includes all that relates to the development and care of the organs of sensation and of the muscular and nervous systems."

Hon. L. A. Woods - Page 6

Article 2675b-5(e) provides for the discontinuance of the State Textbook Commission and the transfer of its duties and functions to the State Board of Education.

Your question is answered in the negative. The Legislature has not authorized the State Board of Education to purchase textbooks on physical education. It has authorized that Board to purchase physiology and physiology-hygiene textbooks.

Yours very truly

ATTORNEY GENERAL OF TEXAS



By Wm. J. Panning  
Assistant

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