



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL**  
ATTORNEY GENERAL

August 15, 1947.

Hon. L. A. Woods  
State Department of Public Instruction  
Department of Education  
Austin, Texas

Attention: Hon. T. M. Trimble  
First Assistant

Opinion No. V-344

Re: Does the extension of the boundaries of the City of New Braunfels automatically extend the boundaries of the New Braunfels Independent School District.

Dear Sir:

We refer to your letter of recent date acknowledged by the Attorney General on July 17, 1947, requesting an opinion from this office concerning whether the extension of the city limits of New Braunfels automatically operates to extend the boundaries of the New Braunfels Independent School District, and related questions. Your attached letter signed by Mr. E. A. Sahn, Superintendent of the New Braunfels Independent School District, presents, in substance, the following questions and factual information:

The New Braunfels Independent School District was created by Acts 1913, 33rd Legislature, R. S., Special Laws, S. B. 294, Ch. 43, page 140. (Gammel's Laws, Vol. 16, p. 140)

Question 1: Will an extension of the city limits of the City of New Braunfels by an election called by the city automatically extend the limits of the New Braunfels Independent School District so as to again make the two corporations identical in territory?

The City of New Braunfels has extended its city limits four times since 1913 when the Independent School District was created by said law, and each time the territory annexed by the city was automatically taken into the New Braunfels Independent School District, and treated for all school purposes as part of the district.

Question 2: Are the simultaneous extensions of the limits of the City of New Braunfels and the New Braunfels Independent School District legal and compatible with the special act creating the independent school district?

Question 3: May the New Braunfels Independent School District now operating under the provisions of the special act creating it, consolidate with other adjacent common school districts as other independent school districts may under and in accordance with the general laws governing independent school districts in the changing or extending of their boundaries?

The records of the Department of Education reveal that the City of New Braunfels assumed control of the schools within the city on April 3, 1879, but that such municipal control of the city school district was divorced from the city by the 1913 special law above noted creating the New Braunfels Independent School District. The records of the Secretary of State reveal further that under the home-rule charter adopted by the City of New Braunfels by election held on January 18, 1944, the city did not assume control of the New Braunfels Independent School District, and that there has been no amendment to the 1913 special act creating the said independent school district.

We quote for purposes of this opinion only those parts and sections of S. B. 294, Acts 1913, which are pertinent to the proper disposition of the questions submitted:

"Section 1. That there is hereby created and established in Comal County, Texas, an incorporation for free school purposes only, under the name of, and to

be known as, the New Braunfels Independent School District, which shall include within its limits all lands and territory included within the corporate limits of the city of New Braunfels, the boundaries of said independent school district to be identical with the limits and boundaries of said city, and said independent school district is hereby incorporated and made a body corporate in law for free school purposes only.

"Sec. 2. That the said city of New Braunfels is hereby divested of the control of the public free schools within its limits and said New Braunfels Independent School District is hereby invested with the exclusive control of the public free schools within the limits of said district; and the title and rights of all property owned, held, set apart or in any way dedicated to the use of the public free schools of the city of New Braunfels heretofore vested in the mayor, city council, or trustees of said city, shall be, and is hereby, vested in the board of trustees, of said New Braunfels Independent School District and their successors in office.

"Sec. 5. . . .; and the board of trustees of the said New Braunfels Independent School District shall have and exercise, and is hereby vested and charged with, all the rights, powers, privileges and duties conferred and imposed by the General Laws of this State upon trustees of independent school districts created and organized under the General Laws of this State, including the right to levy and collect taxes for the issuance of bonds and for the maintenance of the schools, and to issue bonds of said district to the extent and for the purposes and subject to the provisions, limitations and conditions that said powers may now be exercised under the General Laws of this State by the trustees of independent school districts incorporated for free school purposes only, . . ."

Your identical question submitted as Question No. 1 herein has been previously submitted for the consideration of this Department concerning the Texarkana Independent School District which was created also by special law, Acts 1920, 36th Legislature, 3rd Called Session, S. B. No. 9, Ch. 31, and Section 1 of said Act reads almost identical with Section 1 of S. B. No. 294 creating the New Braunfels Independent School District. This Department advised in its Opinion No. 0-3823, a copy of which is attached and incorporated as a part hereof, that the extension of the municipal boundaries of the City of Texarkana did not automatically extend the boundaries of the Texarkana Independent School District and that the boundaries of such school district are subject to the applicable laws relating to bodies corporate for school purposes only.

We think the ruling given in Opinion 0-3823, for the reasons therein stated, are equally applicable and constitute sufficient and proper answer to your first and third submitted questions as stated herein; that the proper answer to your first question should be in the negative, and to your third question in the affirmative.

Your second submitted question relating to a specific fact situation depends upon the proper answer to your first question. It necessarily follows that Question No. 1 having been determined in the negative that the answer to your second question is in the negative, unless there has been curative or validating legislation which would validate the stated actions of the City of New Braunfels in simultaneously extending the limits of the city and the New Braunfels Independent School District. We have found no such validation legislation, nor have we been apprised thereof.

#### SUMMARY

The extension of the city limits of the City of New Braunfels will not operate automatically to extend the school district limits or boundaries of the New Braunfels Independent School District, said school district boundaries being fixed by Acts 1913, 33rd Leg., R. S., Special Laws, S. B. 294, Ch. 43, p. 140, and the district not being municipally controlled. A. G. Opinion No. 0-3823.

The boundaries of the New Braunfels Independent School District are subject to the applicable general laws governing independent school districts, not municipally controlled, and may be changed and extended in accordance therewith.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Chester E. Ollison*  
Chester E. Ollison  
Assistant

CEO:djm:jt

Enclosure

APPROVED:

*Fagan Dickson*  
FIRST ASSISTANT