



**THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS**

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March 27, 1948

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

Attention: Hon. T. M. Trimble

Opinion No. V-527

Re: Inclusion of scholastics previously enumerated on Census of another District on the teacher-pupil load for equalization aid of the District to which these scholastics have been transferred.

Dear Sir:

We refer to your opinion request of recent date which reads, in part, as follows:

"The Somerset Independent School District of Bexar County, in applying for equalization aid, included as those students who are eligible to count on the teacher-pupil load children who are now living in the Somerset District, but were enumerated in another district. The children have been transferred prior to August 1, 1947, by proper application to the county superintendent's office from the district in which they were enumerated to the district in which they now reside and attend school.

"Article I, Section 1 of the Equalization Aid Law provides, in part that 'State aid under the provisions of this Act shall be distributed in such a way as to assist all school districts which have not fewer than twenty (20) nor more than fifteen hundred (1500) original enumerated scholastics within the grades classified to be taught remaining in the district after transfers out, above the grades taught in the home district; . . .

"Article III, Section 1 of this Law provides, in part, that 'State aid under provisions of this Act shall be allotted upon the basis of one teacher for any number of scholastics of each race from twenty (20) to thirty-five (35) and one (1) additional teacher for each additional thirty (30) scholastics, or fractional part thereof, residing in the district. . . ."

"The students mentioned above are residents of the district in which they are attending school. They are not above the grades taught in the home district, as they are attending school in the home district, and they comply with Article III, Section 1, which provides for the education of children residing in the district."

Question: Since the students were not originally enumerated in their home district in which they are now attending school, may such students be counted on the teacher-pupil load and the district be granted aid therefor.

Under the facts submitted, we understand that the pupils in question were enumerated under Article 2816, V. C. S., on the scholastic census of districts other than the Somerset District for the scholastic year 1947-48. That after said census taken in March, 1947, but prior to August 1, 1947, the scholastics in question moved into and became residents of the Somerset District and said pupils entered school in the Somerset District for the scholastic year 1947-48. Their State and County per capita apportionment funds (Arts. 2665, as amended, 2692, 2685, 2823, and 2830, V.C.S.) were transferred to the receiving district, Somerset, under the general law governing the transfer of pupils, Art. 2696, V. C. S., which also provides that "no transfer shall be made after August 1."

Article 2901, V. C. S., provides:

"Every child in this State of scholastic age shall be permitted to attend the public free school of the district or independent district in which it resides

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at the time it applies for admission, notwithstanding that it may have been enumerated elsewhere, or may have attended school elsewhere part of the year." (Emphasis ours)

See also Articles 2902, and 2922L(1), Sec. 1, first paragraph, V. C. S.

Thus, it is clear that under Article 2901, V. C. S., an elementary or high school scholastic whose grades are taught in the district wherein he resides shall be permitted to attend school in the district wherein he resides, and that the transfer of his per capita apportionment is accomplished in accordance with the provisions of Article 2696, provided the transfer is not made after August 1.

Further, this Department has previously advised in Opinion No. O-5634 that children transferred out of a district prior to August 1, under Article 2696, V. C. S., are no longer on the scholastic enrollment of their home district, but are on the enrollment of the receiving district.

We now consider those parts of the Equalization Law cited in your letter.

Section 1, of Article I, of H. B. 295, Acts 1947, sets out the eligibility requirements which must be met by a district seeking State aid and showing need therefor under State law. On the other hand, Section 1, of Article III, of H. B. 295, concerns itself with the teacher-pupil load or quota requirement which an eligible district must consider in the preparation of its State aid budget submitted with its application showing need for State aid. With regard to Section 1, of Article I, we think that the term "original enumerated scholastics" as used therein refers to and means that official scholastic census of the applying district accomplished under Articles 2816 or 2816a, V. C. S., and taken in the last preceding month of March of the school year. All laws in pari materia must be construed together. Thus, if after an applying district accounts for the transfers out of the district of those scholastics residents of the district whose grades are not taught in the district, the total original enumerated scholastics, as herein defined, remaining in the district is not "fewer than twenty (20) nor more than fif-

teen hundred (1500)", the district is eligible for State aid under H. B. 295, other provisions of the Act having been met.

However, the teacher-pupil load or quota of an eligible district provided for in Section 1, of Article III of said Act, is based not on the original enumerated scholastics as provided in the eligibility provisions of Section 1, of Article I, but rather on the method of calculation set out in Section 1, of Art. III; and insofar as the Somerset District is concerned under the facts submitted, Section 1, of Article III, as hereinabove quoted specifically provides that the teacher-pupil load of the eligible districts shall be allotted upon the basis of one teacher for any number of scholastics from twenty to thirty-five and one additional teacher for each additional thirty scholastics, or fractional part thereof, residing in the district.

Therefore, it is our opinion that those scholastics in question who were transferred to the Somerset District under Article 2696, V. C. S., prior to August 2, 1948, who were reported as transfers in the district's application for State-aid for the scholastic year, 1947-48, and who were entitled to attend Somerset schools under Article 2901, V. C. S., may be counted on the teacher-pupil load of said district in accordance with the provisions of Sec. 1, of Article III, H. B. 295, 50th Legislature, notwithstanding said scholastics were enumerated in districts other than the Somerset Independent School District. Accordingly, the Somerset District may be granted salary aid therefor.

SUMMARY

Based on the facts submitted, those scholastics who were transferred to the Somerset District under Article 2696, V. C. S., who were reported as transfers in the district's application for State aid for the scholastic year 1947-48, and who were entitled to attend Somerset schools under Article 2901, V. C. S., may be counted on the teacher-pupil load of said district in accordance with provisions of Section 1, of Article III, H. B. 295, 50th Legislature, notwithstanding said scholastics were enumerated in districts other

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than the Somerset District. Accordingly,
the Somerset Independent School District
may be granted salary aid therefor.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Chester E. Ollison*
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CEO:mw

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