



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL**

**ATTORNEY GENERAL**

May 8, 1952

Hon. R. C. Lanning  
Chairman  
State Board of Control  
Austin, Texas

Opinion No. V-1455  
Re: Authority of the Board  
of Control to allocate  
to the Texas Education  
Agency certain space  
in the State Land Office  
Building which is now  
occupied by other de-  
partments.

Dear Sir:

Your request for an opinion of this office  
is as follows:

"The Board of Control, in endeavoring  
to carry out the mandate of the Legislature  
that the Texas Education Agency should be  
accommodated in contiguous offices, desires  
to allocate adequate space in the State Land  
Office Building for the Texas Education  
Agency.

"Since the State Banking Department  
has moved from the Walton Building and the  
Board of Insurance Commissioners has moved  
from the State Land Office Building, it is  
possible at this time to allocate substan-  
tially equivalent office space for two  
State Departments now remaining in the  
State Land Office Building, whereupon ade-  
quate space for the Texas Education Agency  
will exist in the State Land Office Build-  
ing.

"It is the view of the Board of Con-  
trol that the provisions of Article 665,  
Vernon's Civil Statutes, authorizing this  
department to allocate space in the public  
buildings to the departments, authorize  
and require the Board to make changes in  
the space allocations in the public build-  
ings from time to time as the Board finds

necessary to promote the efficient utilization of the public buildings in its charge.

"Two State Departments which now occupy space in the State Land Office Building can be housed in substantially equivalent space in other public buildings, namely, the Walton Building and the Capitol Building, respectively, but these departments have questioned the authority of the Board of Control to require that they move from the space they now occupy.

"The Board of Control requests the opinion of your office concerning the authority of the Board under Article 665, to allocate space in the State Land Office Building now occupied by other departments to the Texas Education Agency."

Article 665, V.C.S., is as follows:

"The State Board of Control shall have charge and control of all public buildings, grounds and property of the State, and is the Custodian of all public personal property, and is charged with the responsibility to properly care for and protect such property from damage, intrusion or improper usage, and the Board is expressly directed to take any steps necessary to protect any public buildings against any existing or threatened fire hazards. And the Board shall be authorized to provide for the allocation of space in any of the public buildings to the departments of the State Government and for the uses authorized by law to have and occupy space in the State buildings, and shall be authorized to make any repairs to any such buildings or parts thereof necessary to the serviceable accommodation of the uses to which such buildings or space therein may be allotted. Provided the Board of Control shall not be understood to have or exercise any authority to direct the

allotment of space in any public building in any manner calculated to increase the operations of any department or use beyond the discharge of duties devolved by provision of law. Said Board of Control shall remove all occupants of all committee rooms in the Capitol and keep them free for Legislative work. Provided, however, that the allocation of any space affecting the quarters of either House of the Legislature, must have the approval of the Speaker of the House of Representatives or the Lieutenant Governor, the approval being for the quarters allocated to the particular House affected." (Emphasis added.)

The Legislature has the exclusive authority to place property owned by the State in the custody and control of the agency of the State it deems best suited for such duties. Conley v. Daughters of the Republic, 106 Tex. 80, 156 S.W. 197 (1913). The Legislature, by the enactment of Article 665, has placed the custody and control of the public buildings, grounds, and property of the State in the Board of Control. It has directed that the Board shall allocate space in the public buildings under its custody to the departments of the State government for the uses authorized by law, subject to the following limitation:

" . . . Provided the Board of Control shall not be understood to have or exercise any authority to direct the allotment of space in any public building in any manner calculated to increase the operations of any department or use beyond the discharge of duties devolved by provision of law.  
. . . "

Unless this limitation, which involves a fact issue beyond the scope of our opinion, is involved, it is our opinion that it is within the discretion of the State Board of Control to determine the allocation of space outlined in your request and make the changes contemplated.

SUMMARY

It is within the discretion of the State Board of Control to allocate to the Texas Education Agency certain space now occupied by other departments in public buildings under the custody of the Board of Control. Art. 665, V.C.S. The power of the Board of Control in this matter is limited only by the provisions of Article 665 requiring that it shall not allot space "in any manner calculated to increase the operations of any department or use beyond the discharge of duties devolved by provision of law."

Yours very truly,

APPROVED:

J. C. Davis, Jr.  
County Affairs Division

Mary Kate Wall  
Reviewing Assistant

Charles D. Mathews  
First Assistant

JR:mh

PRICE DANIEL  
Attorney General

By   
John Reeves  
Assistant