



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**WAGGONER GARR
ATTORNEY GENERAL**

September 29, 1966

**Mr. Jess M. Irwin, Jr.
Executive Director, Texas
Department of Mental Health
and Mental Retardation
Austin, Texas**

Opinion No. C-770

**Re: An interagency contract
between the Mental Health
and Mental Retardation
Department or an insti-
tution under its control
and the Texas Education
Agency for the stated
purposes.**

Dear Mr. Irwin:

Your request for an opinion reads as follows:

"Pursuant to authority contained in Article IV, Section 1, H.B. 12, Acts, 59th Legislature, Regular Session, 1965, (appropriations), the Texas Education Agency proposes through their Vocational Rehabilitation Division to make an interagency contract with this Department, or an institution under its control and management, whereby they will pay \$150.00 per month to the Department or institution for each mental retardate under the Department's control and supervision, who shall be furloughed to a half-way house to be rehabilitated to the end that he or she may become self sufficient in open society. The fulfillment of such a contract would require the Department, or institution, to rent or lease or possibly accept as a gift from private sources a facility (usually a large dwelling house) suitable to house the retardates selected for rehabilitation. These costs and other necessary expenses will be borne from the payments made by the Texas Education Agency.

"Wherefore, your opinion and advice as to the following question is respectfully requested:

"May this Department, or an institution under its control and management, enter into such an

interagency contract with the Texas Education Agency for the purpose stated, bearing in mind that such a contract would require this Department or an institution under its control and management to:

"(a) Rent, lease or accept as a gift a suitable privately owned facility in which to carry on the rehabilitation program;

"(b) Be fully responsible for the operation, management and control of the half-way house rehabilitation activity?"

Monies are specifically appropriated to the Central Education Agency for vocational rehabilitation by the provisions of Section 1 of Article IV of H.B. 12, Acts of the 59th Legislature, Regular Session, (General Appropriation Act). Furthermore, the Legislature has made various appropriations to the Board of Mental Health and Mental Retardation for the care and treatment of the mental retardate.

Section 2.21 of Article 5547-202, Vernon's Civil Statutes, an Act creating the Texas Department of Mental Health and Mental Retardation provides:

"At the request of the Department, all departments and agencies and all officers and employees of the state shall cooperate with the Department in activities consistent with their functions. This does not require other departments and agencies to serve the Department in activities inconsistent with their functions or with the authority of their offices or with the laws of this state governing their activities."

Section 3 of Article 4413(32), Vernon's Civil Statutes, provides in part:

"Any State agency may enter into and perform a written agreement or contract with other agencies of the State for furnishing necessary and authorized special or technical services, including the services of employees, the services of materials,

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or the services of equipment."

In view of the foregoing provisions, and in view of the fact that the Central Education Agency and the Texas Department of Mental Health and Mental Retardation have similar duties relating to the vocational rehabilitation of the mental retardate, it is our opinion that the two agencies have the authority to make and enter into an interagency contract for the purpose of providing facilities necessary to carry out the rehabilitation program as outlined in your request.

S U M M A R Y

The Central Education Agency and the Mental Health and Mental Retardation Department has the authority to enter into an interagency contract whereby the Texas Education Agency, through their Vocational Rehabilitation Division will pay \$150.00 per month to the Texas Department of Mental Health and Mental Retardation for each mental retardate under the Department's control and supervision who shall be furloughed to a half-way house to be rehabilitated in accordance with the rehabilitation program of the Texas Department of Mental Health and Mental Retardation.

Very truly yours,

WAGGONER CARR
Attorney General of Texas

By: John Reeves
John Reeves
Assistant Attorney General

JR:mh:ra

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APPROVED:
OPINION COMMITTEE

W. V. Geppert, Chairman
Pat Bailey
Malcolm Quick
Roger Tyler
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APPROVED FOR THE ATTORNEY GENERAL
BY: T. B. Wright