



OFFICE OF
THE ATTORNEY GENERAL

AUSTIN, TEXAS

GERALD C. MAHN
PRICE DANIEL
XXXXXXXXXXXX
GENERAL

March 6, 1939

Honorable L. A. Woods
State Superintendent
Department of Education
Austin, Texas

Dear Sir:

Opinion No. 0-395
Re: Can the Methodist Orphan's Home, Waco, Texas, Receive Tuition Aid Out of the Equalization Fund?

We are pleased to reply to your request of February 28th for an opinion relating to the eligibility of the Methodist Orphan's Home in Waco for State aid out of the Equalization fund. You state that this Orphan's Home was created an Independent School District some two years ago, but that the district does not have any taxable valuation and does not have a tax rate.

The current appropriation of the Equalization fund was enacted by Senate Bill No. 183, Regular Session of the 45th Legislature, 1937, and amended by House Bill No. 133, Second Called Session of the 45th Legislature, 1937. Section 6 of the latter Act provides:

"Section 6. Tax Levy. No school district shall be eligible to receive aid under the provisions of this Act unless it shall be providing for the annual support of its schools by voting, levying, and collecting for the current year a local maintenance school tax, exclusive of the tax for interest and sinking fund for bonds, of not less than Fifty (50) Cents on the One Hundred Dollars (\$100), of property valuation in the entire district, or not less than Seventy-five (75) Cents, inclusive of the tax for interest and sinking fund for bonds for the year ending of August 31, 1938; and providing' further, that the property valuation shall not be less than said property is valued for State

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and county purposes. Any school district which shall after October 1, 1937, reduce its existing property assessment and/or existing tax rates, thereby enabling it to participate under this Act, shall not be eligible to receive aid from any of the funds herein provided; providing further that for the year ending August 31, 1939, no district shall receive aid unless it shall be levying and collecting local maintenance tax of not less than Fifty (50) Cents on the One Hundred Dollars (\$100) valuation, and provided further that the provisions of this Section shall apply to sending districts for each of the years covered by this allocation."

This provision, we believe, unequivocally disqualifies any school district of aid under the act which does not meet the minimum tax requirements therein set out. Since the Methodist Orphan's Home in Waco levies no tax it is ineligible for aid under this Act.

Yours very truly

ATTORNEY GENERAL OF TEXAS

BY

Walter R. Koch
Assistant

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APPROVED:

/s/ Gerald G. Mann

ATTORNEY GENERAL OF TEXAS