



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable T. M. Trimble,
First Assistant State Superintendent
of Public Instruction
Austin, Texas

Dear Sir:

Opinion No. O-9030
Re: Is the Castleberry
Common School District
of Tarrant County, Texas
entitled to aid under
the terms of House Bill
No. 176, Regular Session
Forty-eighth Legislature?

Your letter of date June 25th, 1943, to which is attached a letter from Dr. A. D. Roach, County Superintendent of Schools of Tarrant County, addressed to Hon. Gerald C. Mann, Attorney General, State of Texas has been received.

We quote from the letter written by Dr. Roach as follows:

"In the discharge of my official duties as County Superintendent of Tarrant County, I am in need of advice that may be obtained through an opinion from the Attorney General of Texas. I, therefore, submit for the consideration of the Attorney General, the following facts and questions:

Facts

"The Castleberry School District is located in Tarrant County, Texas. The district has 958 enumerated scholastics for the school year 1943-44. There are 261 pupils above the grades taught in the Castleberry School District. There are, therefore, 697 originally enumerated scholastics within the grades classified to be taught remaining in the district. This, of course, assumes that there will be no transfers out. It, therefore, becomes obvious that the scholastic population of the Castleberry School District will be in excess of 500 during the

Hon. T. M. Trimble page 2

coming school year unless there are at least 198 pupils classified within the grades taught in the Castleberry School district transferred out. The Castleberry School District has received State aid for the preceding five years or more.

"House Bill No. 176 by Lock, et al., which is commonly referred to as the Equalization Law of Texas for the Biennium 1943-45, provides in Article 1, Section 3, the following:

"Section 3. Distance Between Schools. No aid shall be granted to any school under the provisions of this Act which is located within two and one-half (2½) miles of another school of the same race, unless on account of the roads and other physical features, it is unreasonable and impracticable for the pupils to attend another school; provided that this restriction shall not apply to elementary schools in a consolidated and/or rural high school district, nor to any district which at some previous election has voted to remove such condition by consolidation, nor to any school district that has received State aid for the preceding five years when need is shown as provided in this act.

Question

"Assuming that the Castleberry School District has a budgetary need for Salary aid, transportation aid and Tuition aid as these terms are used in the Act, will the underscored exception contained in Article 1, Section 3, as set out above, operate to permit the Castleberry Common School District to receive State aid under the terms of House Bill No. 176, Act of the last Regular Session of the Legislature, even though the district has in excess of 500 originally enumerated scholastics within the grades classified to be taught remaining in the district after transfers out, provided there are no other exceptions contained in the bill that applies to this district other than the one underscored above which occurs in Article 1, Section 3.

Hon. T. M. Trimble page 3

The exception set out in section 3 of House Bill No. 176 passed by the Legislature in 1943, pertaining to state aid to public schools which exception is underscored in your letter is only an exception to the first part of said section which inhibits the granting of aid to any school located within two and one-half miles of another school of the same race and is not an exception to that provision of Section 1 of the same act which limits aid to those school districts having an enumerated scholastic population of not less than twenty nor more than five hundred original enumerated scholastics within the grades classified to be taught remaining in the district after transfers out.

Therefore, we answer the question submitted in the above quoted letter in the negative.

Yours very truly
ATTORNEY GENERAL OF TEXAS

By *E. P. Price*
E. P. Price
Assistant

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OK
c. c. R.

APPROVED JUL 1943
Gerald G. Mann
ATTORNEY GENERAL OF TEXAS

