



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

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Honorable Joe P. Flack  
County Attorney  
Menard County  
Menard, Texas

Dear Sir:

Opinion No. O-5462  
Re: Disposition of money and  
property of districts  
upon formation of rural  
high school district.

We have received your letter of July 19, 1943,  
which we quote in part as follows:

"The County Judge of Menard County, has asked me for an opinion as to the following matter. I have advised him in answer to said question, but as usual, he thinks that he should have an opinion from your Department.

"On June 19, 1943, an election was held and was carried annexing certain common school districts with the Menardville Independent School District or consolidating said districts under the Rural High School Act.

"Some of these school districts have money on hand and own property, the question is: what is to become of said property and money? That is, said districts have local tax money on hand and own busses and other property, but as I understand they have no bonded indebtedness and the question is, as stated above, what should be done with this property?"

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We do not have before us the question of the establishment of the enlarged district, and for the purposes of this opinion, we assume that the same was legally established. Our answer will, therefore, be confined to the question of the proper disposition of the funds and property of the individual or elementary district upon the information of the enlarged district.

Article 2922a, Vernon's Annotated Civil Statutes, sets forth the procedure whereby a rural high school district may be formed. The method whereby such a district may be abolished is also given. Such method is as follows:

"\* \* \* Provided that the county school trustees shall have the authority to abolish a rural high school district on a petition signed by a majority of the voters of each elementary district composing the rural high school district and when such district has been abolished the elementary districts shall automatically revert back to their original status, with the exception that in the event there are any outstanding indebtedness against the said rural school district each elementary district shall assume its proportional part of the debts."

When school districts are consolidated under Article 2806, Vernon's Annotated Civil Statutes, the districts consolidated lose their separate identity. However, the formation of a rural high school district does not abolish the elementary districts, and separate elementary schools must be maintained therein. Article 2922f; *Chastain v. Mauldin*, 32 S. W. (2d) 237; *McPhail v. Tax Collector of Van Zandt County*, 280 S. W. 260; *County Board of School Trustees of Limestone County v. Wilson*, 5 S. W. (2d) 805; Opinion No. O-3085. And under Article 2922a, upon the abolition of the rural high school district, the elementary districts return to their original status.

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In the case of Chastain v. Mauldin, supra, the court had before it the question whether the trustees of a rural high school district could remove the schoolhouse of an elementary district to another district. We quote the following from the opinion of the court:

" \* \* \* In the McPhail Case above, Judge Looney in holding constitutional the provisions of chapter 19a, title 49, sets forth very clearly the purposes and effect of the legislation. As there pointed out, the grouping provided for does not have the effect of abolishing the several districts in the group. See also Limestone Board v. Wilson (Tex. Civ. App.) 5 S. W. (2d) 805. It merely groups them for high school purposes and places the grouped board in charge of all of the schools in the district, thus abolishing the several district boards. \* \* \* The trustees of the grouped district were invested with the power and charged with the duty of conducting schools and of administering all school property and funds of all the districts within the boundaries of the consolidated districts. But they did not have the right to divert property or funds of one district to another, or to the grouped district. This is clearly the holding in the McPhail Case. It follows that they did not have the power to remove the school building of the Panther Creek district to the Grosvenor district, as that would have been a diversion of the property from its proper purpose and object. The only consolidation affected by the grouping was that of the funds collected from taxation for general maintenance. The ownership of school buildings of the several districts remained the property of those districts and could not be divested or impaired by the trustees of the grouped district. We believe and so hold that in attempting to remove the school building the trustees were about to perform a wholly unauthorized act."

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Upon the dissolution of a rural high school district, certain questions might be raised as to the property rights of the various districts if the money and property originally belonging to the individual districts had been used in other districts or in the enlarged district.

Evidently under the Mauldin case, and you are so advised, upon the formation of a rural high school district, the trustees of said district may use the funds and property of an elementary district only for the benefit of said elementary district.

However, we call your attention to that part of the opinion of the court in the Mauldin case which reads as follows:

" \* \* \* \* The trustees of the grouped district have the management and control of the building in question, and we do not hold that they are without authority under proper safeguards for its return or replacement to remove it temporarily to the Grosvenor district. That question, however, is not presented by the pleading or proof before us. The case as made by the record presents only the question of the power of the Grosvenor trustees to convert the school building of the Panther Creek district."

We believe that under this language it may be that buses and other property of the elementary district which is susceptible of being used over the enlarged district may be so used if proper safeguards are taken to preserve and protect the property rights of the elementary district.

Yours very truly,

APPROVED JULY 31, 1943

ATTORNEY GENERAL OF TEXAS

(signed) Grover Sellers

FIRST ASSISTANT  
ATTORNEY GENERAL

By (signed)  
George W. Sparks  
Assistant

GWS-s: jm  
O.K.  
C.C.R.

APPROVED  
Opinion Committee  
By BWB  
Chairman