



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL -

Honorable H. A. Hodges
County Auditor
Willamson County
Georgetown, Texas

Dear Sir:

Opinion No. O-5518
Re: Authority of County Board of
Education to grant leave of
absence to County School
Superintendent who has been
inducted into the United
States Navy.

Your letter addressed to this department of date August 11, 1943, requesting the opinion of this department on the above captioned subject has our attention, your letter reads as follows:

"I have your Opinion No. O-5488 relative to the appointment of a successor to the County School Superintendent when a vacancy occurs, however I desire further information in connection with this matter.

"When the attention of the Chairman of the County Board of Education was called to this opinion he stated there was not a vacancy as only a "leave of absence" was granted the County School Superintendent and his chief assistant was appointed by the Board to act in his stead during his service in the U. S. Navy, which means, as I understand the law, to the next general election. I am sure the County School Superintendent could not continue to serve, in any way, after the term for which he was appointed expired.

"Does the County Board of Education have the legal authority to grant a leave of absence to a County School Superintendent who has been inducted

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into the U. S. Navy and is now serving in the Navy and residing outside of Williamson County? In this case is it a physical vacancy as set out in S. B. No. 175, Chapter 13, Acts of the 48th Legislature, Regular Session?

"Does the Chief Deputy of the Co. School Supt. have legal authority to act in his stead, under his bond and receive his salary, either directly or indirectly?

"If the leave of absence as granted by the County Board of Education is legal would the fact that the wife of the Supt. was appointed as an assistant in the office be barred by the Nepotism law?

"If a leave of absence may be legally given by the School Board for what length of time is it applicable?

"Does the State Department of Education have any authority, legal authority, in any way in such matters as above outlined?

"An assistant in the State Department of Education informed the County School Superintendent that the County Board of Education had the authority to grant a leave of absence, as in this case, and the State Department of Education recognized such acts as legal and several counties were acting under it.

"It is my opinion, also the opinion of the Commissioners Court, that a vacancy exists in the office of the County Superintendent of Williamson County and it is the legal duty of the Court to appoint a successor.

"As this matter is urgent at this time I shall greatly appreciate an opinion at your earliest convenience."

Your first question is:

"Does the County Board of Education have legal authority to grant a leave of absence to a County School Superintendent who has been inducted into the United States Navy and is now serving in the Navy?"

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Your first question is answered in the negative. See opinions Nos. 0-3344 and 0-2710 written by this department, copies of which are hereto attached.

Second question:

"In this case is it a physical vacancy as set out in S. B. No. 145, Chapter 13, Acts 48th Legislature, Regular Session?"

Your second question is answered in the negative. See opinion No. 0-5435, written by this department, a copy of which is hereto attached.

Third question:

"Does the Chief Deputy of the County School Superintendent have legal authority to act in his stead, under his bond and receive his salary, either directly or indirectly."

Your third question is answered in the negative. See opinion of this department No. 0-3295, a copy of which is hereto attached.

Fourth question:

"If the leave of absence as granted by the County Board of Education is legal would the fact that the wife of the Superintendent was appointed as an assistant in the office be barred by the Nepotism law?"

Our answer to your sixth question is that since a leave of absence cannot be granted to the school superintendent by the County Board of Education it would be contrary to the Nepotism law for a County Board of Education to appoint the wife of the superintendent as an assistant in such office. See opinion No. 0-4973 written by this department, a copy of which is hereto attached.

From what has been said above it is thought unnecessary to answer your fifth question.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED AUG 20, 1945

Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

By

E. P. Price
E. P. Price
Assistant



Approved
encl. *ok*
C.C.P.