



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

April 2, 1948

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

Attention: Hon. T. M. Trimble

Opinion No. V-534

Re: Expenditure of local
tax funds of a School
District, whose scho-
lastics are transfer-
red, to build a base-
ball field for the
community.

Dear Sir:

We refer to your opinion request of recent date wherein we are advised that Center Point Common School District has not maintained a school within the past two years and has been transferring its scholastics to the Carbon Independent School District. Center Point has about \$2,000.00 in local tax money in the depository and it wants to spend this money on constructing and lighting a baseball field for the community.

Query: May the trustees of this district spend this local tax money for this purpose?

While you did not so state, we assume for the purpose of this opinion that the Center Point scholastics are attending the Carbon District under the authority of Article 2699, Vernon's Civil Statutes, which provides, in part:

" . . . all the children residing in a school district may be transferred to another district, or to an independent district, upon such terms as may be agreed upon by the trustees of said districts interested."

The authorized expenditures for which local school funds from district taxes may be used are set out in Article 2827, Vernon's Civil Statutes, which reads, in part, as follows:

"The public free school fund shall not be expended except for the following purposes:

"2. Local school funds from district taxes, tuition of fees of pupils not entitled to free tuition and other local sources may be used for the purposes enumerated for state and county funds and for purchasing appliances and supplies, for the payment of insurance premiums, janitors and other employees, for buying school sites, buying, building and repairing and renting school houses, and for other purposes necessary in the conduct of the public schools to be determined by the Board of Trustees. . . ."

Under this statute local school funds from district taxes shall not be expended except for the specific purposes enumerated therein and for other purposes necessary in the conduct of the public schools to be determined by the local Board of Trustees. Thus, the expenditure of such funds may be made only for the purposes enumerated and for other purposes necessary in the conduct of the public schools. Public funds, among which are included school funds, collected and designated by statute to be used only for particular public purposes cannot be lawfully diverted to the use of another particular public purpose. *San Benito Independent School District v. Farmers' Bank*, 78 S.W. (2d) 741; *Madeley v. Trustees of Conroe Independent School*, 130 S.W.(2d) 929.

Under the facts submitted herein, it is contemplated that such local school funds from district taxes shall be used for a public purpose, namely, for the construction and lighting of a baseball field for the community, which is a purpose other than for which the funds were collected and designated. Such a use or diversion is prohibited by Article 2827 and violates the public trust principle announced in the cited *San Benito* case. A school district is but a trustee or guardian of public funds coming into its possession, and may disburse them only in the manner and for purposes prescribed by law. *Love v. City of Dallas*, 120 Tex. 351, 40 S.W.(2d) 20.

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SUMMARY

Common school district, whose scholastics are transferred to another district, may not use local tax money to build a baseball field for community.
Art. 2827, V. C. S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Chester E. Ollison*
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Assistant

CEO:mw

APPROVED:

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