



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

May 12, 1948

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

Opinion No. V-572

Re: Article 2880a, V. C. S.
as amended, concerning
alien exchange teach-
ers.

Attn.: Hon. T.M. Trimble
First Assistant

Dear Sir:

We refer to your letter of recent date where-
in you cite Article 2880a, Section 1, as amended by H.
B. 356 and S. B. 292, Acts 1947, 50th Legislature, R.S.,
and submit the following question thereon:

"Is it necessary that such teachers
be exchanged teacher for teacher, and
school for school."

Article 2880a, Sec. 1, Vernon's Civil Stat-
utes, as amended, by Acts 1947, provides:

"No teacher's certificate shall be
issued to an alien, authorizing such per-
son to teach in the elementary and/or se-
condary public free schools, unless evi-
dence is produced showing an intention to
become a naturalized citizen of the United
States of America; and the State Department
of Education shall not issue a teacher's
permanent certificate to any person who is
not a citizen of the United States. It
shall be unlawful for any board of trustees
to contract with any person who is an alien
to teach in any elementary and/or secondary
free public school of this State unless such
person . . . has declared his intention to
become a citizen of the United States; and
all contracts in violation of this provi-
sion shall be void and of no effect; (pro-
vided, however, this section shall not ap-
ply to any alien teacher, a subject of
Great Britain or a citizen of Canada or

Mexico, regularly designated by proper authority to serve as an exchange teacher in the United States and to teach in the public schools of Texas for not more than one year, if a like privilege is currently granted by the nations named to any teacher designated by the governing body of a school district in this State to serve as an exchange teacher for a period of not more than one year.)^H
(Parenthesis added)

Prior to the amendment by Acts 1947, Sec. 1 of Article 2880a read substantially the same as that part of the Act above quoted which is not enclosed in parenthesis. The amendment of 1947 added that part enclosed in parenthesis and Section 2, a repealing clause. The caption of the bill denotes that the previous law was amended to provide for the exchange of teachers by the designated proper authorities in the State of Texas.

In construing the provisions of Article 2880a as it read prior to the 1947 Amendment the Attorney General held that Texas law did not authorize the exchange of a Texas teacher for a teacher of England, allowing the latter to teach during the course of the year in Texas schools and in turn allowing the former to teach in place of the latter in the schools of England. Such practice was held not to be permissible because (1) the available school fund of any school district could be used only for the purposes therein set out (Article 2827), and Article 2827 did not authorize school boards to expend their money in paying the salary of a teacher who did not teach in their particular district; and (2) under Texas laws and the rules and regulations of the State Department of Education it was necessary for a person to hold a teacher's certificate before he was entitled to teach in Texas schools. Attorney General Letter Opinion Book, Vol. 373, page 855 (1936). An additional reason for said holding was that Article 2880a, as it then read, specifically provided that no teacher's certificate should be issued to an alien unless evidence is produced showing his intention to become a citizen of the United States, and school boards were specifically prohibited therein to contract with any person who is an alien unless said person had declared his intention to become a citizen of the United States.

It is clear that Article 2880a was amended by

the 50th Leg., Regular Session, 1947, Chapters 281 and 282, so as to provide an exception with respect to alien teachers of Great Britain, Canada and Mexico, and to permit the issuance of a one-year special teacher's certificate to such alien teachers authorizing them to teach in any elementary and/or secondary free public school of this State without declaring intention to become citizens of the United States, where said alien teachers have been designated by proper authority of their nation to serve as exchange teachers in the United States and to teach in the public schools of Texas for not more than one year and where the like privilege is currently granted by their nation to any teacher designated by a school district board of Texas to serve as an exchange teacher for a like period of time.

We think that Article 2880a, as amended, contemplates and provides that any board of trustees of a Texas school district may contract for the employment of such a properly designated alien exchange teacher for one year where said teacher has obtained a special teacher's certificate authorizing him to teach in an elementary and/or secondary free public school of this State, and where a like privilege has been currently granted by his named nation to any teacher designated by any school district board of Texas to serve as an exchange teacher for a like period of time. The statute does not require that such teachers be exchanged teacher for teacher, or school for school. It requires simply that there be a designation of teachers by the proper authorities of the named nations and that a reciprocal privilege has been currently granted by the named nations desiring to exchange teachers to teach in certain Texas public schools for a period of one year.

Your attention is directed to Section 2 of Article 2908a, Vernon's Civil Statutes, which requires certain alien or foreign instructors to file an affidavit complying with the provisions of said Act.

SUMMARY

Under Article 2880a, Vernon's Civil Statutes, as amended by Acts 1947, 50th Leg., R. S., H.B. 356 and S.B. 292, it is not necessary that certain alien exchange teachers authorized and employed

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to teach in certain public schools of
Texas be exchanged teacher for teacher,
and school for school.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Chester E. Gillisen*

Chester E. Gillisen
Assistant

CEO:mw

APPROVED:

Price Daniel
ATTORNEY GENERAL