



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

March 28, 1960

Mr. Jack Fields
County Attorney
P. O. Box 774
Port Lavaca, Texas

Opinion No. WW-822

Re: Under Art. 297, Penal Code, State of Texas, does the compulsory school attendance period commence on the first day of the opening of the school term unless otherwise authorized by the District School Trustees and related questions.

Dear Mr. Fields:

You have asked the following questions:

"1. Under Article 297, Penal Code, State of Texas, does the compulsory school attendance period commence on the first day of the opening of the school term unless otherwise authorized by the District School Trustees and notice given by the Trustees.

"2. Assuming all legal notices according to law are given; would a person standing in parental relation to a child within the compulsory school attendance ages, who is not properly excused from attendance upon school for some exemption provided by law and said person standing in parental relation to said child fails and/or refuses to require such child to attend school regularly for 120 days, commencing on the first day of the opening of the school term unless otherwise authorized by the District School Trustees and notice given by the Trustees; be subject to prosecution on the second day of such school term, or at a time shortly thereafter, that would be deemed a reasonable time to allow said parent to comply with said article."

Article 297 of the Texas Penal Code reads as follows:

"Every child in the State who is seven (7) years and not more than sixteen (16) years of age shall be required to attend the public schools in the district of its residence, or in some other district to which it may be transferred as provided by law, for a period of not less than one hundred and twenty (120) days annually. The period of compulsory school attendance at each school

shall begin at the opening of the school term unless otherwise authorized by the district school trustees and notice given by the trustees prior to the beginning of such school term; provided, that no child shall be required to attend school for a longer period than the maximum term of the public school in the district where such child resides." (Emphasis added.)

The answer to your first question is: Yes. The statement in the Act that the period of compulsory school attendance "shall begin at the opening of the school term, unless otherwise authorized" means the period shall begin on the first day of the opening of the school term unless otherwise authorized.

Article 299 of the Texas Penal Code reads as follows:

"If any parent or person standing in parental relation to a child within the compulsory school attendance ages who is not properly excused from attendance upon school for some exemption provided by law fails to require such child to attend school regularly for such period as is required by law, it shall be the duty of the attendance officer who has jurisdiction in the territory where said parent or person standing in parental relation resides, to warn such parent or person standing in parental relation that this law must be immediately complied with, and upon failure of said parent or person standing in parental relation to immediately comply with this law after such warning has been given, the official discharging the duties of the attendance officer shall forthwith file complaint against such parent or person standing in parental relation to said child, which complaint shall be filed in the County Court, or in the Justice Court in the precinct where such parent or guardian resides. Any parent or other person standing in parental relation upon conviction for failure to comply with the provisions of this law shall be fined for the first offense five dollars, and for the second offense ten dollars, and for each subsequent offense twenty-five dollars. Each day that said child remains out of said school after said warning has been given or after said child has been ordered in school by the Juvenile Court, may constitute a separate offense." (Emphasis supplied.)

After warning or notice as prescribed by Article 299 of the Penal Code the parent or person standing in parental relation to a child must com-

Mr. Jack Fields, Page 3. (WW-822)

ply immediately with the provisions of said Article by requiring the child to attend school regularly or he would be subject to prosecution. Whether such persons have complied immediately with such notice or warning is a question of fact for the Court or Jury.

SUMMARY

1. The period of compulsory school attendance under Article 297, Texas Penal Code, commences on the first day of the opening of the school term unless otherwise authorized by the District School Trustees and notice given by the Trustees.
2. After warning or notice as prescribed by law the parent or person standing in parental relation to a child must comply immediately with the provisions of Article 299, Penal Code, by requiring the child to attend school regularly or be subject to prosecution.

Yours very truly,

WILL WILSON
Attorney General of Texas


By: Cecil Cammack, Jr.
Assistant Attorney General

CC:aw

APPROVED:

OPINION COMMITTEE;

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REVIEWED FOR THE ATTORNEY GENERAL
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