



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL,
ATTORNEY GENERAL

December 11, 1975

The Honorable Ron Jackson
Executive Director
Texas Youth Council
201 East 14th Street
Austin, Texas 78701

Opinion No. H-748

Re: Administration of the
homes maintained by the
Texas Youth Council for
dependent and neglected
children.

Dear Mr. Jackson:

You have asked two questions concerning the administration of the Texas Youth Council's homes for dependent and neglected children. Your questions are:

- (1) May house parents be employed on a live-in basis without violating article 5159d, V.T.C.S.?
- (2) May the Texas Youth Council continue to offer educational services, including housing and meals, on a voluntary basis to residents of the homes who have reached the age of eighteen (18)?

You have informed us that the house parents involved would be married couples and would be paid not less than \$7,560.00 per person per annum. Article 5159d requires a minimum wage of \$1.40 per hour subject to certain exceptions. Section 4(b)(3) exempts "any person employed in a . . . professional capacity." We need not determine whether or in what circumstances a house parent would be within this exemption, for under the information you have supplied to us it is clear that article 5159d, assuming its applicability, would not prohibit this employment. A salary of \$7,560.00 per annum is roughly equivalent to \$145.00 per week. Thus, such an employee could be required to work almost 104 hours per week without any violation of article 5159d. You have informed us that the house parents will probably work 55 to 60 hours per week and will therefore receive more than the minimum wage. It may also be noted that sections 5(c) and 5(d) are applicable.

Your second question is whether the Texas Youth Council may continue to offer educational services, including housing and meals, to residents of the homes when they reach 18 years of age. Article 5143d, section 9a, V.T.C.S. provides:

Subject to such policies as the Texas Youth Council may adopt, the Corsicana State Home, the West Texas Children's Home at Pyote, and the Waco State Home may accept for admission any child between the ages of three (3) years and eighteen (18) years who is a full orphan, a half-orphan, or a dependent and neglected child, and may offer, if needed, care, treatment, education, and training, to such children as are admitted thereto until they have reached the age of twenty-one (21) years. (Emphasis added)

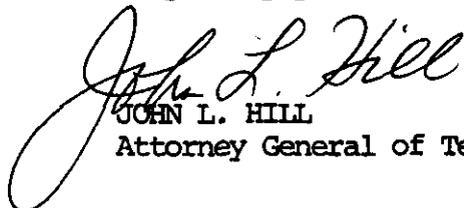
In our view, this article clearly authorizes the provision of care and education on a voluntary basis to residents of the homes who have reached the age of 18 but not 21. We believe the Legislature intended to specify that other persons, at the discretion of the Youth Council, would continue to be qualified for these benefits without regard to their legal infancy or adult status. Attorney General Opinion H-585 (1975). Compare Attorney General Opinion H-83 (1973).

S U M M A R Y

Under the stated facts the Texas Youth Council may employ house parents on a live-in basis without violating article 5159d.

The Youth Council may continue to offer educational services and care, including meals and housing, on a voluntary basis to residents of homes for dependent and neglected persons and orphans after they reach 18 years of age and until they reach 21 years of age.

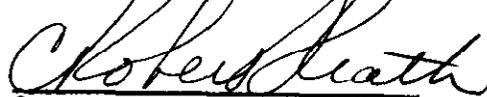
Very truly yours,


JOHN L. HILL
Attorney General of Texas

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APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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