



# The Attorney General of Texas

March 15, 1983

**JIM MATTOX**  
Attorney General

Supreme Court Building  
P. O. Box 12548  
Austin, TX. 78711-2548  
512/475-2501  
Telex 910/874-1367  
Telecopier 512/475-0266

1607 Main St., Suite 1400  
Dallas, TX. 75201-4709  
214/742-8944

4824 Alberta Ave., Suite 160  
El Paso, TX. 79905-2793  
915/533-3484

220 Dallas Ave., Suite 202  
Houston, TX. 77002-6986  
713/650-0666

806 Broadway, Suite 312  
Lubbock, TX. 79401-3479  
806/747-5238

4309 N. Tenth, Suite B  
McAllen, TX. 78501-1685  
512/682-4547

200 Main Plaza, Suite 400  
San Antonio, TX. 78205-2797  
512/225-4191

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Mr. Kenneth H. Ashworth  
Commissioner  
Coordinating Board  
Texas College and University System  
P. O. Box 12788, Capitol Station  
Austin, Texas 78711

Opinion No. JM-13

Re: Whether securities pledged by bank to secure deposit of junior college district funds may be placed for safekeeping with another bank

Dear Commissioner Ashworth:

You ask two questions regarding the safekeeping of securities pledged by depository banks to secure junior college district funds held by those depository banks. First, you ask:

May a bank, chosen as a depository by a public junior college and pledging securities to cover the funds on deposit by the college, legally place those securities in safekeeping with another bank that is owned by the same holding company that owns a depository bank?

Section 130.084 of the Texas Education Code provides:

The board of trustees of junior college districts shall be governed in the establishment, management and control of the junior college by the general law governing the establishment, management and control of independent school districts insofar as the general law is applicable.

The provisions of the Education Code relating to junior college districts, section 130.001, et seq., do not contain a provision relating to junior college district depositories. Thus, according to the express language of section 130.084, junior college districts are governed by the School Depository Act, section 23.71 et seq. of the Education Code.

Section 23.79(c) of the Education Code permits a depository bank to deposit or pledge approved securities "with the school district, or with a trustee designated by the school district." No other provision in the School Depository Act makes reference to a trustee holding approved securities for a depository bank.

"Designate" is not defined in the Education Code. Words that are not defined in a statute are given their ordinary significance unless they are words of art or words connected with a particular subject matter. V.T.C.S. art. 10, §1; National Life Company v. Stegall, 169 S.W.2d 155, 157 (Tex. 1943). "Designate" means to indicate or set apart for a purpose or duty. Black's Law Dictionary 402 (5th ed. 1979); Webster's New Collegiate Dictionary 308 (1977). Thus, a school district may specify the trustee bank.

The power to designate includes the power to approve or disapprove a trustee bank. Neither the School Depository Act nor any other statute of which we are aware prohibits a depository bank from placing for safekeeping pledged securities in another bank owned by the same holding company that owns the depository bank. Thus, the answer to your first question is yes, if the bank in which the securities are to be placed is designated by the school district as the "trustee" bank. You also ask:

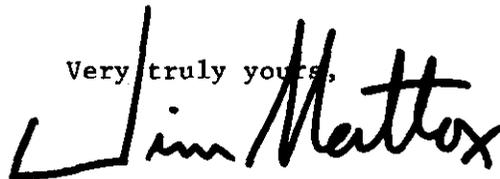
If the answer to question (1) is yes, does section 23.79(c), Texas Education Code, give the college the authority to direct the depository bank to place pledged securities in safekeeping with a bank independent of the holding company?

We believe our discussion of your first question answers your second question. Section 23.79(c) of the Texas Education Code clearly provides that the school district has the authority to select the trustee or bank in which the pledged securities shall be kept. This interpretation is consistent with the remaining provisions of section 23.79(c), which give the school district authority to designate the amount of approved securities and to approve the substitution of approved securities by the depository bank.

#### S U M M A R Y

With the approval of the junior college district, a depository bank holding public junior college funds may place for safekeeping its pledged securities with another bank that is owned by the same holding company as the depository bank. Section 23.79(c) of the Education Code authorizes a junior college district to direct the depository bank to place the pledged securities in safekeeping with a bank independent of the holding company.

Very truly yours,



J I M M A T T O X  
Attorney General of Texas

TOM GREEN  
First Assistant Attorney General

DAVID R. RICHARDS  
Executive Assistant Attorney General

Prepared by Yolanda McKeeman  
Assistant Attorney General

APPROVED:  
OPINION COMMITTEE

Susan L. Garrison, Chairman  
Jon Bible  
Rick Gilpin  
Yolanda McKeeman  
Jim Moellinger