

**OFFICE OF THE ATTORNEY GENERAL OF TEXAS****AUSTIN****GERALD C. MANN**  
**ATTORNEY GENERAL**

Honorable H. A. Glass, Director  
Textbook Division  
Department of Education  
Austin, Texas

Dear Sir:

Opinion No. O-2790

Re: Payment of freight on used textbooks out of Textbook Fund proper, instead of itemized maintenance and miscellaneous appropriation of \$25,000.00.

This will acknowledge receipt of your letter of September 27, requesting an opinion upon the question of whether freight on used textbooks may be paid out of the textbook fund proper, or whether you were limited to the expenditure of not more than \$25,000.00 for such purpose, as itemized in the maintenance and miscellaneous appropriation provided for the Textbook and Curriculum Division of the Department of Education.

The answer to your question is ruled by our opinion No. O-2459, addressed to you under date of July 18, 1940. In that opinion we held that, by authority of the State Board of Education, more than the itemized amount of \$23,360.00 may be spent within one year for the rebinding of state-owned textbooks, the excess to come out of the appropriation made to the State Board of Education of the balance of the fund out of which the specific appropriation was made. In that opinion we said:

"It is observed that the entire balance in the Available School Fund and the State Textbook Fund is appropriated by specific language to the State Board of Education 'to be expended and distributed in accordance with the laws of this State'."

Honorable H. A. Glass, Page 2

By law, the State Board of Education is charged with the power and duty of purchasing and distributing free textbooks to the pupils attending the schools within this State, and the State Textbook Fund is provided for the accomplishment of this purpose. (Vernon's Civil Statutes, Articles 2866-2876) The balance in the State Textbook Fund has been appropriated by the Legislature to the State Board of Education to be expended by it in the discharge of its duty.

You are therefore advised that, by authority of the State Board of Education, there may be expended out of the appropriation of the balance in the State Textbook Fund such sum of money for freight on used textbooks, in addition to that specifically provided by the Legislature, as may to the State Board of Education appear to be necessary for that purpose.

Yours very truly

APPROVED OCT 16, 1940

ATTORNEY GENERAL OF TEXAS

*Howe Allen*

FIRST ASSISTANT  
ATTORNEY GENERAL

By

*R. W. Fairchild*

R. W. Fairchild  
Assistant

HWT:CO

