



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable L. A. Woods  
State Superintendent of Public Instruction  
Austin, Texas

Dear Sir:

Opinion Number Q-5287  
Re: Transfer of entire enrollment  
of school district under cur-  
rent rural aid bill (Acts 1941,  
47th Leg., H.S., H.B. 234, Ch.  
549, p. 380).

We have before us your letter of May 6, 1943, from  
which we quote as follows:

"Superintendent Breedlove of the Haskell School  
informs me that he has several districts annexed to  
his district for the current year by contract as  
authorized by section 2, article 8 of the current  
Equalization Aid Law.

"Superintendent Breedlove holds that this section  
will entitle him to the maximum of \$5 per month for  
the 9 months of the term as instructional cost on  
elementary pupils, and the maximum of \$7.50 per month  
for the 9 months of the term for high school pupils  
living in these contracted districts and attending  
the Haskell School.

"I should like to have your opinion as to whether  
this is the correct legal interpretation of section  
2, article 8. You will bear in mind that Haskell,  
which is the receiving district, is not a state-aid  
school, and that the contracted districts are eligi-  
ble for aid."

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Section 2, Article VIII of the rural aid bill authorizes, under certain conditions, the transfer of the entire scholastic enrollment of a school district unable to maintain a satisfactory school to an accredited school of higher rank. Where the transfer is made to a school district not a state-aid school, the following provision is applicable:

" \* \* \* If the receiving school is not a State Aid school, the scholastic census rolls both white and colored shall be combined, the per capita apportionment shall be paid direct to the receiving school, all local taxes of the sending contracting district except those going to the interest and sinking fund shall be credited to the receiving school by the Tax Collector as collected, and the sending contracting district will be eligible for as much Salary Aid as is necessary to supplement the State Available and Local Maintenance Funds, on the scholastics from the sending district attending a school in the receiving district, to cover the approved cost of instruction per scholastic in the receiving school, provided that such approved cost shall not exceed Seven Dollars and Fifty Cents (\$7.50) per month for high school students or Five Dollars (\$5.00) per month for elementary students." (Emphasis added).

Under any interpretation the largest amount to which a school district, conducting a nine month school, could be entitled under the Act would be \$7.50 for each high school student and \$5.00 for each elementary student for each of nine months, or a total of \$67.50 and \$45.00, respectively. But does this mean that each school district coming within the terms of the above quoted provision is entitled to such an amount if the same is not needed or necessary? We think that the language used clearly shows that the answer is a negative one. It is provided that the sending district is entitled to as much aid "as is necessary to supplement" local maintenance and State available funds "to cover the approved cost of instruction per scholastic in the receiving school." "As much

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as is necessary" does not mean "more than is necessary." And the provision that such approved cost "shall not exceed" \$7.50 per month for high school students or \$5.00 per month for elementary students does not make a grant of such amounts but merely sets the same as maximum limitations.

We have been informed by members of your Equalization Division that the cost of instruction is determined by itemized budgets submitted by the school districts, and the cost of instruction is ascertained and approved on that basis. Upon inquiry we were further informed that the Equalization Division has determined that for five months the Haskell school district will need no supplementary funds to cover the approved cost of instruction. Therefore, need is shown for only four months. It follows that the sending district will be eligible for supplementary aid for only four months. To allow more than such an amount would, under the submitted budget, create a surplus.

The purpose of the rural aid grant is to make it possible for schools, lacking sufficient funds, to operate properly and successfully - not to create a surplus in the funds of a district. We quote the following provision from Article VI of the bill:

" \* \* \* and no aid shall be given unless it can be shown that all provisions of this Act have been complied with and that such amount of aid actually needed as shown by the approved budget and actual expenditures and that the funds are being used as approved."

You are, therefore, advised that where the entire scholastic enrollment of a school district entitled to rural aid is transferred, under the provisions of Section 2, Article VIII of the current bill, to a school district which is not a State aid school, the sending district will be eligible for as much Salary Aid as is necessary to supplement the State available

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and local maintenance funds, on the scholastics from the sending school attending school in the receiving district, to cover the approved cost of instruction per scholastic in the receiving school, provided that such approved cost shall not exceed \$7.50 per month for high school students or \$5.00 per month for elementary students. You are further advised that such amounts are the maximum amounts authorized and are to be granted only if a need is shown therefor. In other words, aid may be granted only in the amounts needed, but in no event may the same exceed the maximum amount set by the Act.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *George W. Sparks*  
George W. Sparks  
Assistant

GWS-s

*E.M.P.*  
APPROVED MAY 18, 1943

*Gerald C. Mann*

ATTORNEY GENERAL OF TEXAS

