



THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN, TEXAS 78711

WAGGONER CARR  
ATTORNEY GENERAL

September 29, 1966

Honorable J. W. Edgar  
Commissioner of Education  
Texas Education Agency  
Austin, Texas

Opinion No. C-771

Re: Whether there is authority under Article 2922-13, Vernon's Civil Statutes, which defines physically handicapped, mentally retarded and emotionally disturbed children, to allocate exceptional children classroom units for special education of children who have only a language disability or handicap which is covered by the Committee definition.

Dear Dr. Edgar:

You have requested the opinion of this office upon the question of:

"Is there authority under Article 2922-13 (which therein defines physically handicapped, mentally retarded and emotionally disturbed children) to allocate exceptional children classroom units for special education of children who have only a language disability or handicap which is covered by the Committee definition?"

The Committee definition mentioned in the foregoing question was proposed by the Interim Committee on Language Disorders in Children of the House of Representatives and is set forth as follows:

"Children who are deficient in the acquisition of language skills due to language disability where no other handicapping condition exists may be considered language handicapped. The areas of language skills are oral expression, reading, writing, spelling, and arithmetic. A language dis-

ability is considered the inability of a child of normal intelligence to progress normally with his peer group in language skills." (Emphasis added.)

We are assuming that the phrase, "where no other handicapping condition exists," as used in the Committee definition, is meant to exclude children who are, "physically handicapped children," "mentally retarded children," and "emotionally disturbed children," as such terms are defined.

In paragraph (a) of Subsection (4) of Section 1 of Article 2922-13, Vernon's Civil Statutes, which provides for the allocation of exceptional children teacher units, provides in part that:

". . . .

"In interpreting and carrying out the provisions of this Act the words 'exceptional children,' wherever used, will be construed to mean physically handicapped children, mentally retarded children and emotionally disturbed children. The words 'physically handicapped children,' wherever used, will be construed to include any child of educable mind whose body functions or members are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools, without the provisions of special services; the words 'mentally retarded children,' wherever used, will be construed to include any child whose mental condition is such that he cannot be adequately educated in the regular classes of public schools, without the provision of special services; and the words 'emotionally disturbed children,' wherever used, will be construed to include any child whose emotional condition is medically determined and psychologically determined to be such that he cannot be adequately educated in regular classes of the public schools, without the provision of special services. . . ." (Emphasis added.)

Paragraph (a) of Subsection (4) of Section 1 of Article 2922-13 provides for and authorizes the allocation of exceptional children teacher units to provide educational

services for school children who are physically handicapped, mentally retarded, or emotionally disturbed. The proposed definition by the House of Representatives Interim Committee on Language Disorders in Children deals with a group of children of normal intelligence who have no handicapping conditions but are merely deficient in the acquisition of language skills and are unable to progress normally with their peer group in language skills.


In view of the foregoing, we are of the opinion that those children having a language disability such as defined in the definition by the Interim Committee on Language Disorders in Children, do not meet the statutory definition of "exceptional children" set forth in paragraph (a) of Subsection (4) of Section 1 of Article 2922-13, and there can be no allocation of "exceptional children" teacher units for special education of children who have merely a language disability of the nature set forth in the proposed definition by the Interim Committee on Language Disorders in Children.

S U M M A R Y

Children having only a language skill deficiency, such as set forth in the definition proposed by the Interim Committee on Language Disorders in Children, do not meet the statutory definition of "exceptional children" set forth in paragraph (a) of Subsection (4) of Section 1 of Article 2922-13, Vernon's Civil Statutes, and there can be no allocation of "exceptional children" teacher units for special education of children with such a language disability.

Yours very truly,

WAGGONER CARR  
Attorney General

By:   
Pat Bailey  
Assistant

PB:sck

Hon. J. W. Edgar, page 4 (C-771)

APPROVED:  
OPINION COMMITTEE

W. V. Geppert, Chairman

Gordon Houser  
Mary K. Wall  
James Evans  
Gilbert Pena

APPROVED FOR THE ATTORNEY GENERAL  
BY: T. B. Wright