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OPINION COMMITTEE

March 23, 2017

Attorney General Ken Paxton
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711

RE: Request for Attorney General Opinion

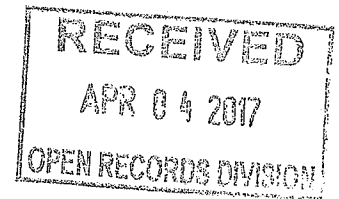
Dear Attorney General Paxton:

Please accept this letter as a request for an Attorney General Opinion with respect to the following legal question:

Whether a Texas public school district may operate a transportation system outside of the district's geographical boundaries in the absence of an interlocal contract pursuant to Texas Education Code § 34.007.

I submit the following regarding this issue for your consideration:

Gatesville Independent School District is a public school district located in Coryell and Bell Counties. Jonesboro Independent School District, a neighboring school district located in Coryell, Hamilton, and Bosque Counties, daily sends Jonesboro ISD buses into Gatesville ISD to



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transport students that live within Gatesville ISD's boundaries but have applied for and been granted transfers to attend Jonesboro ISD schools.

The Texas Education Code addresses when a school district may operate outside of its own county or district boundaries in Section 34.007.

Specifically,

- (a) A board of county school trustees or a school district board of trustees may establish and operate an economical public school transportation system:
 - (1) in the county or district, as applicable; or
 - (2) outside the county or district, as applicable, **if the county or school district enters into an interlocal contract as provided by Chapter 791, Government Code.**

See Tex. Educ. Code § 34.007 (emphasis added). Your office has issued an opinion in keeping with this statute when it ruled that an independent school district may not operate a school outside of that district's geographic boundaries. See Tex. Att'y Gen. Opinion No JC-0332 (2001) (discussing the legislative intent behind and need for contracts when school districts attempt to operate outside of their geographical areas). Opinion No. JC-0332 also takes pains to note that "[t]he mere absence in Texas law of a prohibition on doing some act does not in itself furnish authority to perform that act." *Id.*

The Texas Legislature has created school districts with specific geographical boundaries that do not overlap and that cover all of the state. See generally, Chapter 13, Texas Educ. Code, particularly Sections 13.010, 13.051 and 13.053. The Texas Legislature has further provided a mechanism for a school district to contract with or enter into certain agreements with another school district for the purpose of performing specific governmental functions and services. Tex. Gov't Code § 791.011, *et seq.* There is no such agreement in place between Gatesville ISD and Jonesboro ISD, nor is one contemplated at this time.

There is very little authority on the interpretation of Texas Education Code §34.007, but it may be useful to draw from the statutory language governing others operating public transportation within the State. The Texas Transportation Code defines a “public transportation system” as:

- (A) all property owned or held by an authority for public transportation or complementary transportation service purposes, including vehicle parking areas and facilities and other facilities necessary and convenient for the beneficial use of, and the access of persons and vehicles to, public transportation;
- (B) real property, facilities, and equipment for the protection and environmental enhancement of all the facilities; and
- (C) property held:
 - (i) in accordance with a contract with the owner making the property subject to the control of or regulation by the authority; and
 - (ii) for public transportation or complementary transportation service purposes.

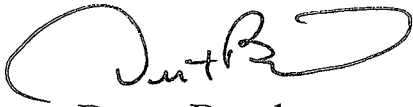
See Tex. Transp. Code § 452.001 (10). Section 452 (“Operation of Public Transportation System”) goes on to state that “an authority may...contract with a municipality, county, or other political subdivision **for the authority to provide public transportation services outside of the authority.**” Tex. Transp. Code § 452.056 (a)(2) (emphasis added).

It is clear that when a public agency or entity contemplates operating outside of its boundaries or other established authority, the mechanism for doing so is to enter into an agreement (here, an interlocal contract or agreement) with the controlling entity for that geographic area to conduct such activities. In the absence of such an interlocal agreement, a school district may not operate a public school transportation system outside of its established geographical boundaries and within the boundaries of another school district.

In light of the above, my office respectfully requests that the Attorney General render an Opinion regarding the issue of whether Jonesboro Independent School District may operate a transportation system outside of its geographical boundaries, and within the boundaries of Gatesville Independent School District, in the absence of an interlocal contract between the districts.

Thank you for your consideration of this request. Please feel free to contact my office should you need any additional information or details regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Dusty Boyd", with a large, stylized flourish at the end.

Dusty Boyd
Coryell County District Attorney

CC: Eric Penrod, Superintendent, Gatesville ISD
Matt Dossey, Superintendent, Jonesboro ISD