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**49TH JUDICIAL DISTRICT**

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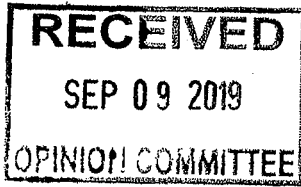
DOMESTIC VIOLENCE COUNSELORS  
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COUNTIES OF

WEBB



ZAPATA



August 30, 2019

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OPEN RECORDS DIVISION

Via: CMRRR #7018-0680-0001-0242-4450

The Honorable Ken Paxton  
Attorney General, State of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

RQ-0304-KP  
FILE # ML-48611-19  
I.D. # 48611

Re: Request for an Attorney General Opinion;

Dear Attorney General Paxton:

This letter requests an opinion pursuant to Texas Government Code § 402.042 on whether Laredo Independent School District, a political subdivision of the State of Texas, may purchase real property, construct and operate a school or program, including an extracurricular program, outside the boundary lines of its district.

**Background**

The Laredo Independent School District ("LISD") is a political subdivision of the State of Texas established in 1882. It consists of approximately 13 square miles and is made up of approximately 33 educational institutions created for the purpose of educating the school age children of its inhabitants which include: 20 elementary schools, 4 middle schools, 4 high schools, including the Hector Garcia Early College High School located adjacent to the Texas A & M International University, Lara Academy, an alternative education campus, and 3 magnet schools. The district has a yearly average of about 25,000 enrolled students.

Bordered by the Rio Grande River/Republic of Mexico on one side, and the territorial boundaries of the United Independent School District ("UISD") on the other, LISD is effectively "landlocked."

**Bonds to Finance Purchase/Construction/Renovation of Schools and Facilities**

LISD voters approved the issuance of Bonds for the purpose of financing acquisition of realty, and for the design, construction and/or renovation of various LISD schools and facilities. Cigarroa Middle School, which was constructed in the early 1980's with an adjacent high school, was included in the Bonds since the District had determined a replacement campus and facilities was needed since they were no longer suitable or able to handle the present needs of its students (the "middle school").

LISD has been searching for real property within the boundaries of its district for the purpose of purchase and construction of the middle school campus for some time, however, has been unable to locate any property suitable in size and location for this purpose within its boundaries given that most of the property within its boundaries has been developed.

LISD recently located a few contiguous parcels of undeveloped land (the "land") listed for sale that would be suitable for the middle school, however, these parcels lie a few blocks south of its southern boundary line of the District, and is located within the boundaries of UISD. LISD wishes to purchase, build and operate a school on land that is located outside of LISD's territorial boundaries.

Because some questions have been raised about whether LISD may legally purchase, develop, and operate Cigarroa Middle School upon land which lies outside of its boundary lines, and within UISD's district, LISD is requesting an opinion as to whether a school district may purchase, build and operate a school on land which is located outside LISD's boundaries.

**Can LISD purchase real property, construct and operate a school or program, including an extracurricular program, outside the boundary lines of its district?**

Relevant to this question is Tex. Educ. Code Section 11.167, which provides,

"Sec. 11.167. OPERATION OUTSIDE DISTRICT BOUNDARIES.

The board of trustees of a school district may operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district."

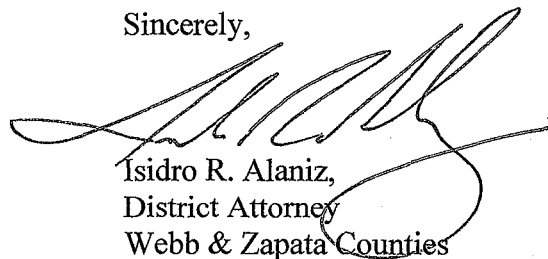
Per Section 11.167, the Texas Legislature expressly provided a district's board of trustees with the authority to operate a school or program, including an extracurricular program or conduct a class outside of its boundaries. I am not aware of any apparent limitation, or other requirement, that restricts the district's authority to serve its mission of educating its children outside of its boundaries.

**Conclusion**

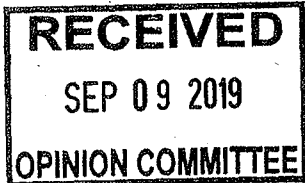
The foregoing summarizes what is understood to be the relevant factual information and legal framework of the question presented to your office.

Please let me know if you require any additional information for your consideration of this issue.

Sincerely,



Isidro R. Alaniz,  
District Attorney  
Webb & Zapata Counties



**WEBB COUNTY ATTORNEY'S OFFICE**  
1110 WASHINGTON STREET, SUITE 301  
LAREDO, TEXAS 78040



FILE # ML-48610-19  
I.D. # 48610

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September 9, 2019

(Via E-Mail: [Opinion.Committee@texasattorneygeneral.gov](mailto:Opinion.Committee@texasattorneygeneral.gov)  
and Certified Mail, RRR)

Attorney General Ken Paxton  
Office of the Attorney General  
Attention: Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

**RE: Request for an Attorney General Opinion**

Dear Honorable Attorney General Paxton:

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

Whether a school district may purchase property located outside of its boundaries and along the contiguous boundary line of an adjacent school district for purposes of constructing and operating a school?

I submit the following legal brief on the issue for your consideration.

Background

All real property in Texas must be included within the limits of a school district.<sup>1</sup> Accordingly, Texas school districts are required to file a complete and legally sufficient description of their boundaries with the Texas Education Agency ("TEA").<sup>2</sup> Further, two

<sup>1</sup> Tex. Educ. Code § 13.053

<sup>2</sup> Tex. Educ. Code § 13.010

contiguous school districts may adjust their common boundary by agreement if certain conditions are met.<sup>3</sup>

United Independent School District (“UISD”), Laredo Independent School District (“LISD”), and Webb Consolidated Independent School District (“WCISD”) are the three school districts in Webb County, Texas. These three school districts entered into an interlocal agreement in 2013 (“the Agreement”) regarding their boundary lines and filed the Agreement with TEA.<sup>4</sup> Pursuant to the Agreement, the contiguous southern boundary between LISD and UISD was set as Lomas Del Sur Boulevard, with the eastern contiguous boundary line set as Ejido Avenue.<sup>5</sup>

It is my understanding that LISD has recently declared its intent to purchase real property located within the boundaries of UISD (the “Property”). Indeed, the northern boundary of the Property is located along the contiguous southern boundary line between UISD and LISD as set forth in the Agreement.<sup>6</sup> It is clear that the trustees of an independent Texas school district constitute a body corporate and in the name of the district may acquire and hold real and personal property.<sup>7</sup> It is less clear whether a school district may acquire real personal property outside of the boundaries of the district for purposes of constructing and operating said school.

Senate Bill 826 passed during the 77th Legislature enacted § 11.167 of the Texas Education Code, which states that a school district may operate a school or program, including an extracurricular program, outside the boundaries of the district.<sup>8</sup> Yet, the legislative intent and history of § 11.167 indicates that the statute was passed to address a very narrow problem facing school districts that desired to hold classes on the campus of an institution of higher education.<sup>9</sup> Hence, § 11.166 of the Texas Education Code was also enacted by the 77th Legislature in conjunction with § 11.167, as § 11.166 set forth the written consent requirements for operation of an actual campus on an institution of higher education.<sup>10</sup> Accordingly, LISD has established the Early College High School on the campus of Texas A&M International University in Webb County since 2006.

Clearly, § 11.167 does not address the process leading up to the operation of a school district program or campus on the grounds of an institution of higher education, which leads us to the issue at hand. It would appear that the language of § 11.167 permits the operation of LISD’s campus located within UISD’s boundaries once acquired, even though it would not be on the grounds of an institution of higher education but would instead be used for purposes of an LISD middle school campus. However, it is possible that the acquisition of the property within UISD’s boundaries is an annexation of UISD’s property, or at the very least a modification of the contiguous boundaries between UISD and LISD for several reasons.

First, the Property would be removed from the taxable base of UISD for as long as LISD remained an owner because it will be used for a public purpose and is therefore exempt from

<sup>3</sup> Tex. Educ. Code § 13.231

<sup>4</sup> Please refer to the attached Interlocal Agreement that has been labeled as Exhibit “A.”

<sup>5</sup> Please refer to the attached color map that has been labeled as Exhibit “B” and that shows the contiguous boundary lines of LISD and UISD.

<sup>6</sup> Please see the attached Exhibit “C” highlighting the current southern boundary line as well as the outline of the Property.

<sup>7</sup> Tex. Educ. Code § 11.151

<sup>8</sup> Tex. Educ. Code § 11.167

<sup>9</sup> See Bill Analysis, Senate Research Center, S.B. 826 (March 1, 2001) (As Filed); Bill Analysis, Senate Research Center, C.S.S.B. 826 (Mar. 8, 2001) (Committee Report – Substituted); Bill Analysis, Office of Bill Analysis, S.B. 826 (April 16, 2001) (Engrossed); Bill Analysis, House Research Organization, S.B. 826 (May 16, 2001); Bill Analysis, Senate Research Center, S.B. 826 (July 2, 2001) (Enrolled). These Bill Analyses are attached to this request as Exhibit “D.”

<sup>10</sup> Tex. Educ. Code § 11.166

taxation.<sup>11</sup> The Property is currently undeveloped and generating approximately \$60,000 in tax revenue to UISD annually, but UISD estimates the total tax revenue of the developed land to be in excess of \$500,000. Second, UISD and LISD are contiguous, and Chapter 13 of the Texas Education Code explicitly deals with boundary changes between contiguous districts. And third, UISD students and taxpayers reside in residential subdivisions to the west and east of the Property on the contiguous boundary line of the two districts, possibly leading to confusion regarding which district services the proposed campus. As a practical matter, the consequences of permitting such a transaction have statewide implications. For example, Allen ISD could, without limit, purchase property within McKinney ISD's boundaries in order to construct and operate a high school or athletic training facility.<sup>12</sup> The same goes for any contiguous school districts across Texas. Such matters are likely better left to the discretion of the boards of trustees of the districts so that a common agreement can be reached regarding district boundaries as allowed by Chapter 13 of the Texas Education Code.

For instance, if LISD desires to construct and operate a campus within UISD's boundaries, LISD could amend the Agreement with UISD to include the Property within LISD's boundary lines. Otherwise, at first glance, it would appear that LISD is amending the contiguous boundary lines set forth in the Agreement with UISD via a private property purchase rather than through a modified Agreement. It is unclear if that is what §§ 11.166 and 11.167 of the Texas Education Code were intended for.

#### Question

Based on the above, the central question that has been brought to my office's attention is whether LISD may purchase the Property on the contiguous boundary line with UISD for purposes of constructing and operating an LISD school. Despite the contrary legislative history and intent of § 11.167 of the Texas Education Code, the language of the statute would seem to allow LISD's operation of an LISD campus within UISD's boundaries without limitation. However, the issue here is not solely related to the operation of the campus, but the *acquisition* of the Property outside of LISD's boundaries for purposes of constructing the campus. Further complicating the matter is the fact that the Property is located directly along the contiguous boundary line between UISD and LISD—a boundary line that was addressed in the written Agreement between the districts in 2013. In other words, may any school district in the state of Texas acquire property within another school district's boundaries for purposes of availing itself of § 11.167?

Given the above issues, my office respectfully requests the Attorney General to render an Opinion regarding this issue on whether a school district may purchase property located outside of its boundaries and on the contiguous boundary line of an adjoining school district for purposes of constructing and operating a school.

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<sup>11</sup> See Tex. Tax. Code § 11.11(a).

<sup>12</sup> Tex. Educ. Code § 11.167 allows the operation of an "extracurricular program" outside a district's boundaries.

Please let me know if you require any further detailed information regarding this request. Thank you in advance for your assistance and consideration.

Sincerely,



Marco A. Montemayor  
Webb County Attorney

Enclosures: Interlocal Agreement between UISD, LISD, and WCISD; Bill Analyses; Boundary Map; Map of Property

cc: Mr. Roberto J. Santos (Via Email)  
Superintendent of Schools  
United Independent School District

Ms. Sylvia G. Rios (Via Email)  
Superintendent of Schools  
Laredo Independent School District

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