

316.

FUNDS—APPORTIONMENT OF SAME—SECTIONS 7575 AND 7600, GENERAL CODE, CONSTRUED.

*SYLLABUS:*

*The apportionment of the funds derived from the 2.65 mills tax levy for educational purposes as provided by Section 7575 of the General Code, should be apportioned to the several school districts by the county auditor as provided by Section 7600 of the General Code, without reference to any moneys that may be received by any board of education from other than public sources.*

COLUMBUS, OHIO, April 13, 1927.

HON. VERNON M. RIEGEL, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication which is as follows:

“Some of the students from Ohio Wesleyan University who are preparing to teach, practice in the high school maintained by the board of education of Brown township, Delaware county. The University pays to the board of education approximately \$5,650.00 per year for this privilege to its students. Ohio Wesleyan University is a private institution and receives no support from public funds. The county auditor, in figuring the apportionment of funds to the Brown Township District, has deducted \$1,040.62 from the apportionment attributable to teacher’s salaries under the regular 2.65 mill levy because of the funds received from the University. In our judgment the receipt of funds from a private source has no bearing on distribution of public funds and the district is entitled to the full amount attributable under the 2.65 mill levy. Your opinion in this matter is respectfully requested.”

I am advised that by the terms of the agreement between the trustees of Ohio Wesleyan University and the Board of Education of Brown township there is no limitation on the board of education as to how the funds which they receive from the university are to be used. That is, they are not limited to the payment of teachers salaries in the use of the funds but that as a matter of practice they do use these funds or a portion of them to supplement public funds which are used for the payment of teachers. Section 7575 of the General Code provides for a state levy of taxes for educational purposes as follows:

“For the purpose of affording the advantages of a free education to all the youth of the state, there shall be levied annually a tax of two and sixty-five hundredths mills, the proceeds of which shall be retained in the several counties for the support of the schools therein. In addition thereto there shall be an ‘educational equalization fund’ which shall consist of such sums as the General Assembly may appropriate from the general revenue fund.”

Provision is made for the distribution of the funds derived from this levy by General Code 7600, which reads in part as follows:

“After each semi-annual settlement with the county treasurer each county auditor shall immediately apportion school funds for his county. Each city school district and each exempted village school district shall receive the

full amount of the proceeds of the levy of two and sixty-five hundredths mills provided in Section 7575, General Code, in the given school district. The proceeds of such levy upon property in the territory of the county outside of city and exempted village school districts shall be apportioned to each school district and part of district within the county outside of city and exempted village school districts on the basis of a number of teachers and other educational employes employed therein, and the expenses of transporting pupils as shown by the reports required by law, and the balance according to the ratio which the aggregate days of attendance of pupils in such districts, respectively bears to the aggregate days of attendance of pupils in the entire county outside of exempted village and school districts.

The annual distribution attributable to teachers and employes shall be according to the following schedule: thirty-seven and one-half per centum of the salary of each teacher or educational employe receiving a salary of not less than eight hundred dollars and a like percentage of the compensation paid to each person giving instruction in trade or technical schools, extension schools, night schools, summer schools and other special school activities, but not to exceed nine hundred dollars for any teacher or educational employe or other such person. In the case of a superintendent under the provisions of Section 4740 distribution shall be made of the given per centum multiplied by a fraction which represents the part of his working time not given to supervisory duties.

The annual distribution attributed to expense of transportation of pupils shall be fifty per centum of the personal service expense incurred in such transportation.

No school district shall be entitled to receive any portion of the said funds in any year until the reports of numbers, salaries and qualifications of teachers employed and aggregate days of attendance and expense of transportation of pupils have been made as required by law. The school tax levied by boards of education and collected from the several districts or parts of districts in the county shall be paid to the districts from which it was collected."

It will be observed that the entire amount of the levy of 2.65 mills as provided for by Section 7575, supra, is paid to city and exempted village school districts but to districts such as the Brown township district apportionment is made by the county auditor based on salaries and school attendance as shown by the reports required by law.

The auditor's duty with respect to the apportionment of these funds is plainly and clearly set out in the law and is largely clerical. He does not make out the report but simply takes the report as it comes to him and apportions the funds in accordance therewith.

The fact that the district may receive other funds has nothing to do with the auditor's apportionment of the funds arising from the 2.65 mills levy and the board of education may use these funds which come to them from outside sources either for the payment of teachers' salaries or for any other purpose for which they have a right to expend moneys unless the terms upon which they receive these moneys from outside sources require that they be used for some certain purpose.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*