

requires everyone who prepares plans and specifications to be filed with an application for a building permit to pay an occupational tax as an "architect," does not entitle such person to a certificate to practice architecture in Ohio without examination, pursuant to the provisions of section 1334-7, General Code.

2. In order to obtain a license to practice architecture in Ohio without examination, pursuant to the provisions of Section 13334-37, General Code, the applicant must show that he has such qualifications as will bring him within the exemption provided in such section.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

4649.

BOARD OF EDUCATION—TUITION—PUPIL ATTENDING HIGH SCHOOL OUTSIDE OF SCHOOL DISTRICT—BOARD NOT LIABLE FOR TUITION UNLESS SCHOOL IN DISTRICT OF RESIDENCE IS MORE THAN FOUR MILES AND TRANSPORTATION IS NOT FURNISHED.

*SYLLABUS:*

*Under no circumstances is a board of education which maintains a high school, liable for the tuition of its resident high school pupils who attend school in another district, except when those pupils live more than four miles from the high school maintained by the board and transportation is not furnished for them to that high school. Under those circumstances, the board may be held for their tuition if they attend a nearer high school.*

COLUMBUS, OHIO, September 23, 1932.

HON. I. K. SALTSMAN, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge your recent request for my opinion, as follows:

"Your opinion is respectfully desired upon the question of the liability for transportation of two high school pupils, and I believe involving construction of Section 7749-1, G. C.

Briefly, the facts are as follows: A. and his family were residents of Union Township, Carroll County, Ohio, until April 5, 1932. On and after April 5, 1932, A. and his family moved to Perry Township, Carroll County, Ohio. At the beginning of the 1931-1932 school year, with the consent of Union Township Board of Education (who did not maintain a high school) and with the Carroll County Board of Education, his two children were sent to Carrollton Village High School in Center Township, Carroll County, where they were classed as a junior and a senior, and their tuition and transportation was paid up to April 1, by Union Township.

The Board of Education of Perry Township, Carroll County, Ohio, claim that they are not liable for either tuition or transportation since a high school was maintained in their township and these pupils did not

avail themselves of the same. On the other hand Union Township claims that since these pupils were not residents of their township after April 5, that they are not liable for tuition and transportation, at least after April 5, 1932. The question is, which district is liable for the tuition of April and May, as well as for transportation furnished during said time?"

The liability of a school district for the payment of tuition of resident high school pupils attending high school outside the district is fixed by Sections 7747 and 7748, General Code. By the terms of these two sections a mandatory duty is imposed on boards of education which do not maintain high schools in their districts to pay the tuition of resident high school pupils who attend high school outside those districts.

Liability for transportation of high school pupils is fixed by Section 7749-1, General Code, which provides in substance, that a board of education may provide transportation for its resident high school pupils to a high school, but is not required to do so unless the county board of education deems and declares such transportation advisable and practicable except in centralized districts where transportation is furnished for elementary pupils.

Under no circumstances is a board of education which maintains a high school liable for the tuition of its resident high school pupils who attend school in another district, except when those pupils live more than four miles from the high school maintained by the board and transportation is not furnished for them to that school. See Opinions of the Attorney General for 1928, page 1828. Under those circumstances the board may be held for the pupils' tuition if they attend a nearer high school than the one furnished by the board. Section 7748, General Code, provides *inter alia*:

"A board of education may pay tuition of all high school pupils residing more than four miles by the most direct route of public travel from the high school provided by the board when such pupils attend a nearer high school, or in lieu of paying such tuition the board of education may pay for the transportation to the high school maintained by the board of the pupils living more than four miles therefrom."

From the provision just quoted it appears that a board of education maintaining a high school has the option of transporting resident pupils who live more than four miles from that high school or of paying their tuition in a nearer high school if they choose to attend the nearer high school. Your inquiry does not state the distance the pupils in question lived from either the Carrollton High School or the high school maintained by the Perry Township Rural Board of Education after they became residents of Perry Township District on April 5, 1932. For that reason it is impossible for me to categorically answer your question. The board's liability under the circumstances may easily be determined by taking into consideration this distance and applying the principles set forth in that portion of Section 7748, General Code, quoted above. Obviously, the board of education of Union Township Rural School District is not liable for the pupils' tuition after April 5, 1932, for the reason that upon that date these pupils ceased to be residents of Union Township Rural School District.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*