

OPINION NO. 85-028**Syllabus:**

R.C. 2151.357 does not require the school district of residence of a child placed in a detention home by a juvenile court to pay the cost of nonacademic summer activities provided for the child by the detention home.

To: David E. Bowers, Allen County Prosecuting Attorney, Lima, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, June 19, 1985

I have before me your request for my opinion concerning the cost of educating a juvenile offender. I have rephrased your question as follows: Is a juvenile offender's school district of residence required to pay the cost of non-academic summer activities conducted by the detention home where the juvenile offender has been placed by a juvenile court?

In your letter of request, you explain that the Allen County Juvenile Treatment Center (the Center) is a juvenile detention home established under R.C.

2151.34 and is administered by the Allen County Juvenile Court. During the minimum school year, see R.C. 3313.48, classes which are geared to lesson plans used by the school district are taught at the Center's educational facility. The Center attempts to provide an education comparable to that which the student would receive if he or she attended classes in the school district's regular classroom facilities. A student receives school district credit for school work completed at the Center.

During the summer, many students are provided with a program in which they listen to speakers and take field trips. The students who take part in this non-academic summer program do not receive school district credit and you have informed me that there is no parallel summer program carried out by the school district for its students who are not confined in the detention home. Your question is whether the school district must pay the cost of the nonacademic summer program.

Before addressing your specific question, it is instructive to examine R.C. 2151.34, which provides for the establishment and operation of juvenile detention homes. R.C. 2151.34 reads, in part:

In case a detention home is established as an agency of the court, or a district detention home is established by the courts of several counties as hereinbefore provided, it shall be furnished and carried on, as far as possible, as a family home in charge of a superintendent or matron in a non-punitive neutral atmosphere. The judge, or the directing board of a district detention home, may appoint a superintendent, a matron, and other necessary employees for such home and fix their salaries. During the school year, when possible, a comparable educational program with competent and trained staff shall be provided for those children of school age. A sufficient number of trained recreational personnel shall be included among the staff to assure wholesome and profitable leisure-time activities. Medical and mental health services shall be made available to insure the courts all possible treatment facilities shall be given to those children placed under their care. (Emphasis added.)

See R.C. 5139.281; 8 Ohio Admin. Code 5139-7-05(D). R.C. 2151.34 requires that during the school year a detention home, when possible, provide an educational program comparable to the program provided in a child's school district and the staff to carry out the program.

R.C. 2151.357 provides for the payment of the cost of an educational program and reads, in part:

In the manner prescribed by division (C)(2) of section 3313.64¹ of the Revised Code, the court shall, at the time of making any order that removes a child from his own home or that vests legal or permanent custody of the child in a person or government agency other than his parent, determine the school district that is to bear the cost of educating the child. Such determination shall be made a part of the order that provides for the child's placement or commitment.

Whenever a child is placed in a detention home established under section 2151.34 of the Revised Code or a juvenile facility established under section 2151.65 of the Revised Code, his school district as determined by the court shall pay the cost of educating the child based on the per capita cost of the educational facility within

¹ R.C. 3313.64(C) generally provides for the manner of determining which school district must bear the financial burden of educating a child when the child does not reside in the district where his parent resides. Division (C)(2) deals with the situation where "the child is in the permanent or legal custody of a government agency or person other than the child's parent."

such detention home or juvenile facility. (Footnote and emphasis added.)

See R. Juv. P. 34(C).

R.C. 2151.357 provides that a child's school district of residence must pay the cost of educating the child and that cost is based upon the per capita cost of the educational facility. In order to determine the extent of a school district's duty under R.C. 2151.357 to pay for the cost of educating a child placed in a detention home, it is necessary to refer to R.C. 2151.34 which sets forth the duties of a detention home with respect to providing an educational program. See Beach v. Beach, 99 Ohio App. 423, 134 N.E.2d 162 (Montgomery County 1955) (statutes which refer to each other are in pari materia and should be construed together to ascertain the legislative intent). Pursuant to R.C. 2151.34, a detention home is required during the school year, when possible, to provide an educational program comparable to the program provided in the child's school district of residence. The fact that the legislature has specified that the educational program is limited to the regular school year and shall be comparable to the program provided in the child's school district indicates that the legislature intended that the school district pay the cost of providing a resident of a detention home an educational program during the school year which is comparable to that which the child would receive if he were attending school in his own school district. Since summer educational programs are not required to be provided under the terms of R.C. 2151.34, the cost of such summer programs does not constitute part of the cost of educating a detention home resident for purposes of R.C. 2151.357.

Based on the foregoing, it is my opinion, and you are advised, that R.C. 2151.357 does not require the school district of residence of a child placed in a detention home by a juvenile court to pay the cost of nonacademic summer activities provided for the child by the detention home.