

June 6, 2018

The Honorable James R. Flaiz  
Geauga County Prosecuting Attorney  
Court House Annex  
231 Main Street  
Chardon, Ohio 44024-1235

SYLLABUS:

2018-013

1. The general division of a court of common pleas shall be located at the county seat, unless the seat of justice has been removed from the county seat pursuant to R.C. 301.04.
2. Offices for the clerk of a court of common pleas, which are used for performing the clerk's duties with respect to the court of common pleas and the court of appeals, may be located at the county seat or in any other part of the county. It may be impractical, however, to locate offices of the clerk of a court of common pleas, which are used in the performance of the clerk's duties with respect to the court of common pleas and court of appeals, at a location that is not in the same building as, or in proximity to, the court of common pleas and the court of appeals.
3. A county law library and offices for a county law library resources board may be located at the county seat or in any other part of the county.
4. Offices for a county board of elections shall be provided by the board of elections and may be located in any part of the county.
5. Offices for the governing board or superintendent of an educational service center shall be provided by the governing board of the educational service center and may be located in any part of the county.
6. Offices for the board of health of a general health district that was formed pursuant to R.C. 3709.07 as a union of a city health district and a general health district may be located at the county seat or in any other part of the county. (1991 Op. Att'y Gen. No. 91-015, overruled, and 1991 Op. Att'y Gen. No. 91-016, overruled, in part, as a result of legislative enactment.)



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OPINION NO. 2018-013

The Honorable James R. Flaiz  
Geauga County Prosecuting Attorney  
Court House Annex  
231 Main Street  
Chardon, Ohio 44024-1235

Dear Prosecutor Flaiz:

You have requested an opinion whether the general division of a court of common pleas and a county law library shall be located at the county seat. You have also asked whether offices for a county board of elections, a county superintendent of schools, an educational service center, a board of health of a general health district, and a county law library resources board shall be located at the county seat.

### **County Seat and Seat of Justice Generally**

Before addressing your specific questions, it is helpful to have an understanding of the terms county seat and seat of justice, as well as the processes of establishing a county seat and a seat of justice. Generally, a county seat is the territory of a county in which the official business of the county is conducted. 1913 Op. Att’y Gen. No. 629, vol. I, p. 407, at 409. It has been defined as “[t]he municipality where a county’s principal offices are located.” *Black’s Law Dictionary* 429 (10th ed. 2014); see also *Ballentine’s Law Dictionary* (LexisNexis 2010) (“[t]he place in a county where the principal county offices are located, where the primary affairs and business of the county are conducted, and where court is held”); 1913 Op. Att’y Gen. No. 629, vol. I, p. 407, at 408 (quoting 7 Am. and Eng. Enc. of Law, 2d ed., p. 1013) (“the seat of government of a county; the town or municipality in which the county and other courts are held, and where the county officers have their offices, and where the county business is transacted”). A county seat is established by submitting a petition to the General Assembly. See R.C. 301.01. Once a county seat has been established, it may be relocated following publication of notice and submission of a petition to the General Assembly. R.C. 301.01; R.C. 301.02; R.C. 301.03; 2006 Op. Att’y Gen. No. 2006-021, at 2-192.

When a new county is established, three commissioners are appointed by the Governor to select a seat of justice. R.C. 301.14. The commissioners “examine and select the most proper place as a seat of justice, as near the center of the county as possible, having regard to the situation, extent of

population, quality of land, and the convenience and interest of the inhabitants.” R.C. 301.15. A seat of justice is part of the county seat, unless it has been removed therefrom. *See* R.C. 301.04 (“[a]ll persons petitioning the general assembly for ... a review or removal of a seat of justice, shall, in their petition, identify the place where they wish the seat of justice to be fixed”). The courthouse is the seat of justice in a county. *State ex rel. Hottle v. Bd. of Cnty. Comm’rs*, 52 Ohio St. 2d 117, 119, 370 N.E.2d 462 (1977) (“the primary purpose of the courthouse is to provide a permanent seat of justice”); *accord State ex rel Bittikofer v. Babst*, 97 Ohio St. 64, 65, 119 N.E. 136 (1917); *see also* R.C. 305.22 (“[u]ntil proper buildings are erected for the permanent seat of justice in a county, the board of county commissioners shall provide a suitable place for holding the courts of such county”).

### **Board of County Commissioners’ Authority to Provide Facilities and Offices**

A board of county commissioners shall provide a courthouse and offices for county officers when the board believes they are needed. R.C. 307.01(A). A board of county commissioners shall also provide “such facilities as will result in expeditious and economical administration of [county] offices[.]” *Id.* So long as a statute does not specify the location of a county office, a board of county commissioners may exercise reasonable discretion in selecting a location for office space provided for county officers. 2010 Op. Att’y Gen. No. 2010-013, at 2-92.

The Revised Code specifies the location of office space for several county officers. For example, a primary office for the county engineer shall be located at the county seat, unless, by resolution and with the consent of the county engineer, a primary office is established elsewhere in the county. R.C. 315.11(A) (“[t]he county engineer shall keep the engineer’s office in the county seat, or at another location as provided in [R.C. 315.11(B)]”). Offices for the county recorder, county auditor, county treasurer, and county board of revision shall be located at the county seat. R.C. 317.03 (“[t]he office of the county recorder shall be kept in such rooms at the county seat as the board of county commissioners provides”); R.C. 319.03 (“[t]he office of the county auditor shall be at the county seat, in such rooms as the board of county commissioners provides”); R.C. 321.05 (“[t]he county treasurer shall keep his office at the county seat, in rooms provided for that purpose by the board of county commissioners, which shall constitute the county treasury”); R.C. 5715.05 (“[t]he board of county commissioners shall furnish to the county board of revision and its experts, clerks, and employees suitable office rooms at the county seat”). Primary offices for a county sheriff and a county coroner shall be located at the county seat of justice, unless otherwise provided by resolution of the board of county commissioners and with the consent of the sheriff or the coroner. R.C. 311.06; R.C. 313.07.

Thus, whether a board of county commissioners is required to locate the general division of a court of common pleas, the county law library, and offices for a county board of elections, a county superintendent of schools, an educational service center, a board of health of a general health district,

and a county law library resources board at the county seat is dependent upon the pertinent statutes. Accordingly, we address your question by examining the pertinent statutes for each of the individual offices or entities referenced in your letter.

### **Court of Common Pleas**

Each county in Ohio is served by a court of common pleas, which includes the probate division and the other divisions that are provided for by statute. Ohio Const. art. IV, § 4(A), (C); R.C. 2301.01; *see generally* R.C. 2151.011(A)(1) (juvenile court); R.C. 2301.03 (domestic relations division). In Geauga County, the court of common pleas has a general division that is served by two judges with jurisdiction over civil cases, including domestic relations cases. R.C. 2301.02(B). The Geauga County Court of Common Pleas also has a probate division that is served by one judge who has jurisdiction over probate and juvenile cases. R.C. 2301.02(C) (except in certain counties, that do not include Geauga County, “[j]udges of the probate division of the court of common pleas are judges of the court of common pleas but shall be elected pursuant to [R.C. 2101.02] and [R.C. 2101.021]”); R.C. 2101.01(B)(1) (except in Lorain County, “‘probate court’ means the probate division of the court of common pleas”); R.C. 2101.02 (“[e]very six years, in each county having a separate judge of the probate division of the court of common pleas, one probate judge shall be elected who is qualified as required by [R.C. 2301.01]”).

Although R.C. 307.01(A) requires a board of county commissioners to provide a courthouse when one is needed, no statute expressly states where the general division of a court of common pleas shall be located. *Cf.* R.C. 2101.01(A) (the probate division of a court of common pleas shall be located at the county seat); R.C. 6101.33 (exceptions to appraisals by the board of appraisers of a conservancy district shall be heard in the county seat by the court of common pleas). Nevertheless, a courthouse is the seat of justice of the county. *State ex rel. Hottle v. Bd. of Cnty. Comm’rs*, 52 Ohio St. 2d at 119; *Zangerle v. Court of Common Pleas*, 141 Ohio St. 70, 83, 46 N.E.2d 865 (1943); 1989 Op. Att’y Gen. No. 89-029, at 2-121 (“the courthouse is primarily intended to house the courts as the seat of justice in the county”); 1929 Op. Att’y Gen. No. 700, vol. II, p. 1069, at 1070 (“[t]he county court house is the seat of justice of the county”). Accordingly, the Ohio Supreme Court and previous Attorneys General have concluded that there is no authority for a board of county commissioners to provide permanent space for a court of common pleas anywhere other than in the county courthouse. *Zangerle v. Court of Common Pleas*, 141 Ohio St. at 83; 1974 Op. Att’y Gen. No. 74-032, at 2-143 (“courts of general jurisdiction must be lodged in the courthouse”); 1965 Op. Att’y Gen. No. 65-91 (syllabus, paragraph 3) (“[a] board of county commissioners is without authority to provide permanent rooms and facilities for the performance of the functions of a court of domestic relations in a place other than the courthouse”); 1919 Op. Att’y Gen. No. 776, vol. II, p. 1422, at 1423 (once a courthouse is provided, “there is no authority vested in the commissioners to expend public funds in providing and maintaining a place for judicial purposes elsewhere, whether it be denominated a court room, judge’s chambers, or judge’s office”); *see also* R.C. 305.22 (“[u]ntil proper buildings are

erected for the permanent seat of justice in a county, the board of county commissioners shall provide a suitable place for holding the courts of such county”).

As discussed above, the county seat of justice is part of the county seat, unless it has been removed therefrom pursuant to R.C. 301.04. Therefore, the general division of a court of common pleas shall be located at the county seat, unless the seat of justice has been removed from the county seat pursuant to R.C. 301.04.<sup>1</sup>

### **Clerk of a Court of Common Pleas**

Every county has a clerk of the court of common pleas, who also serves as the clerk of the court of appeals. R.C. 2303.01; R.C. 2303.03(A). The primary responsibility of the clerk of a court of common pleas is to maintain the records of the court of common pleas and court of appeals. *See* 1994 Op. Att’y Gen. No. 94-089, at 2-442 (for purposes of the public records law, the clerk of a court of common pleas is the custodian of the public records of the court). The clerk of a court of common pleas shall “keep the journals, records, books, and papers appertaining to the court and record its proceedings.” R.C. 2303.14. In addition, “[t]he clerk of the court of common pleas shall indorse on each pleading or paper in a cause filed in the clerk’s office the time of filing, enter all orders, decrees, judgments, and proceedings of the courts ... make a complete record when ordered on the journal to do so, and pay over to the proper parties all moneys coming into the clerk’s hands as clerk.” R.C. 2303.08. The clerk is also required to “file together and carefully preserve in his office all papers delivered to him for that purpose in every action or proceeding.” R.C. 2303.09. As clerk of the court of appeals, the clerk of the court of common pleas performs the same duties and maintains the files and records of the court of appeals. R.C. 2501.16(A).<sup>2</sup>

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<sup>1</sup> R.C. 2101.01(A) requires the probate division of a court common pleas to be held at the county seat. Thus, even if the seat of justice is removed from the county seat, the probate division of the court of common pleas shall remain in the county seat.

Our conclusion does not preclude a court of common pleas from operating in a temporary location inside or outside of its territorial jurisdiction during a “natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a division of a court of common pleas in the territorial jurisdiction of the division.” R.C. 2301.04(A).

<sup>2</sup> The clerk of a court of common pleas may also perform additional duties as a deputy registrar of motor vehicles pursuant to R.C. 4503.03(A)(1)(a)(ii). When performing those responsibilities, the clerk of a court of common pleas is “located in such locations in the county as the [Registrar of Motor Vehicles] sees fit.” R.C. 4503.03(A)(2). For the purpose of this opinion, we have limited our analysis to the location of offices for the clerk of a court of common pleas that are used in the performance of the clerk’s duties with respect to a court of common pleas.

The clerk of a court of common pleas is a county officer. 1968 Op. Att’y Gen. No. 68-099, at 2-142. Accordingly, the board of county commissioners is required to furnish office space for the clerk when it is needed. R.C. 307.01(A); 1968 Op. Att’y Gen. No. 68-099, at 2-142. No statute requires that a board of county commissioners provide, at the county seat, offices for the clerk of a court of common pleas that are used in the performance of the clerk’s duties with respect to a court of common pleas. Thus, a board of county commissioners may provide such office space at the county seat or in any other part of the county.

However, it is important to keep in mind that a clerk of the court of common pleas is a ministerial officer of the court. *State ex rel. Dawson v. Roberts*, 165 Ohio St. 341, 342, 135 N.E.2d 409 (1956). The clerk of a court of common pleas functions as an arm of the court when he retains custody of the court’s records, files the court’s papers, and collects costs. *Hillman v. O’Shaughnessy*, 10th Dist. No. 16AP-571, 2017-Ohio-489, 2017 Ohio App. LEXIS 473, at ¶11; *see also State ex rel. McKean v. Graves*, 91 Ohio St. 23, 24, 109 N.E. 528 (1914) (clerk of the Ohio Supreme Court is “only an arm of the court for issuing its process, entering its judgments and performing like duties”); *State ex rel. Stacey v. Halverstadt*, No. 87-C-30, 1987 Ohio App. LEXIS 9295, at \*4 (Columbiana County Oct. 23, 1987) (“[i]n the operation of the [legal side] of his office, it is proper to conclude that the [clerk of a court of common pleas] acts as an arm of the courts and in some cases acts as the court in carrying out the court’s instructions”). In addition, “[t]he clerk of the court of common pleas . . . functions as an integral part of the common pleas court.” 2009 Op. Att’y Gen. No. 2009-044, at 2-317; *see also State ex rel. McKean v. Graves*, 91 Ohio St. at 25 (“the duties of the clerk of the [Ohio Supreme Court] are the duties of the court itself and embraced within the grant of judicial power”). When performing his duties for the court, the clerk of a court of common pleas is subject to the direction of the court. R.C. 2303.26 (“in the performance of official duties the clerk shall be under the direction of the court”). In light of the relationship between the clerk of a court of common pleas and the courts he serves, it may be impractical to locate offices of the clerk of a court of common pleas, which are used in the performance of the clerk’s duties with respect to the court of common pleas and court of appeals, at a location that is not in the same building as, or in proximity to, the court of common pleas and the court of appeals.

### **County Law Library and County Law Library Resources Board**

In each county there is a county law library resources board. R.C. 307.51(B). The county law library resources board provides “legal research, reference, and library services to the county and to the municipal corporations, townships, and courts within the county[.]” *Id.* In addition, the board “manage[s] the coordination, acquisition, and utilization of legal resources.” *Id.* A county law library resources board is a county agency. 2010 Op. Att’y Gen. No. 2010-014, at 2-94; 2010 Op. Att’y Gen. No. 2010-001, at 2-3 (overruled, in part, on other grounds by 2015 Op. Att’y Gen. No. 2015-017). As a county agency, a board of county commissioners shall, pursuant to R.C. 307.01, provide an office for the county law library resources board, when the board of county commissioners determines that an office is needed, and facilities for the expeditious and economical administration of that office. 2010 Op. Att’y Gen. No. 2010-001 (syllabus, paragraph 1). As noted above, unless a statute specifies a location for offices for a county officer or agency, a board of county commissioners has discretion to select the location of office space the board provides pursuant to R.C. 307.01.

R.C. 307.512 requires the county law library resources board to “[w]ithin fifteen days after July 1, 2009 ... hold its initial meeting *at the office of the board of county commissioners* at a time that the chairperson of the county law library resources board determines.” (Emphasis added.) Other than R.C. 307.512, no statute specifies where subsequent meetings of the law library resources board shall be held. Nor does any statute specify a location for a permanent office for the law library resources board, if an office is deemed necessary.<sup>3</sup> Therefore, an office for a law library resources board may be located at the county seat or in any other part of the county.

We now turn to the location of a county law library. County law library resources boards were created by the General Assembly to replace county law library associations, which were organized as private associations or non-profit corporations. Am. Sub. H.B. 420, 127th Gen. A. (2008) (eff. Dec. 30, 2008); 2010 Op. Att’y Gen. No. 2010-001, at 2-1. Prior to 2008 and the enactment of Am. Sub. H.B. 420, R.C. 3375.49(A) required a board of county commissioners to provide “space [for the use of the law library] in the county courthouse or, in any other building located in the county seat, and utilities for that space.” Am. Sub. H.B. 66, 126th Gen. A. (2005) (eff. Sept. 29, 2005). Pursuant to R.C. 3375.49(B)(1), the board of county commissioners was required to pay, through 2006, any costs related to the space and utilities that the board of county commissioners provided for the use of the law library. Am. Sub. H.B. 66. Beginning in 2007 through 2010, R.C. 3375.49(B)(2) required the board of county commissioners and the board of trustees of the law library association to share in the costs of the space, utilities, furniture and fixtures provided for the law library. Am. Sub. H.B. 66. During that time, the board of trustees of a law library association was responsible for paying a greater percentage of those costs, until the board of trustees was responsible for paying 80% of the costs in 2010. *Id.* Beginning in 2011 and thereafter, R.C. 3375.49(B)(3) required the board of trustees of the law library association to pay all the costs of the space, utilities, furniture, and fixtures provided by the board of county commissioners for the use of the law library. Am. Sub. H.B. 66. At that time, division (C) of R.C. 3375.49 provided the following exception to the cost-sharing provisions of division (B):

If the board of trustees of a law library association ... rents, leases, lease-purchases, or otherwise acquires space for the use of the law library, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide space for the use of the law library, the board of county commissioners ... has no further obligation ... to provide space in the county courthouse or any other building located in the county seat for the use of the law library and utilities for that space, and has no further obligation ... to make payments ... for the costs of space in the county

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<sup>3</sup> R.C. 307.512 states that after the initial meeting of a law library resources board, “the board shall meet at least four times a year, as determined by the chairperson or at any other time as determined by a majority of the board.” In light of the limited number of times per year that a law library resources board may meet, a board of county commissioners may reasonably conclude that permanent office space dedicated solely to the use of the law library resources board is unnecessary.

courthouse or another building for the use of the law library, the utilities for that space, and the law library's furniture and fixtures.

Am. Sub. H.B. 66.

In 2006, R.C. 3375.49 was again amended by the General Assembly through the enactment of Sub. H.B. 363, 126th Gen. A. (2006), (eff. August 3, 2006). With respect to the costs related to the space, utilities, furniture, and fixtures for the law library, Sub. H.B. 363 generally did not change the division of those costs between a board of county commissioners and the board of trustees of a law library association, except to extend the final year of cost-sharing through 2011 so that the board of trustees of a law library association would not assume responsibility for paying all of those costs until 2012. Sub. H.B. 363.

In 2008, the General Assembly enacted Am. Sub. H.B. 420, 127th Gen. A. (2008) (eff. Dec. 30, 2008). In addition to creating a law library resources board in every county to replace a law library association, Am. Sub. H.B. 420 repealed R.C. 3375.49, effective December 31, 2009, and enacted R.C. 307.51(B). Am. Sub. H.B. 420 (§ 101.03, uncodified). The repeal of R.C. 3375.49 eliminated the express statutory requirement that a board of county commissioners provide space for a county law library in the courthouse or another building in the county seat. Accordingly, no statute currently in effect specifies where a county law library shall be located. Nevertheless, R.C. 307.01's requirement that the board of county commissioners "provide ... such facilities as will result in expeditious and economical administration of [county] offices," includes the provision of space for a county law library. 2010 Op. Att'y Gen. No. 2010-001, at 2-3 ("even though R.C. 3375.49, which required the board of county commissioners to provide law libraries with space and utilities, was repealed, effective December 31, 2009, the board nonetheless has a mandatory obligation under R.C. 307.01 to provide the LLRB with offices and necessary facilities").<sup>4</sup> That the General Assembly has not specified a location of a law library means that the board of county commissioners may exercise

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<sup>4</sup> The Ohio Legislative Service Commission's final bill analysis of Am. Sub. H.B. 420, 127th Gen. A. (2008) (eff. Dec. 30, 2008) presumes that R.C. 307.51(B)'s requirement that each county law library resources board "provide legal research, reference, and library services to the county and to the municipal corporations, townships, and courts within the county," includes "the provision of space, furniture and fixtures, and utilities for the library." Ohio Legislative Service Comm'n, Final Bill Analysis, Am. Sub. H.B. 420 (2008), at p.16 n.3. Although we recognize that the provision of library services may be construed to include the provision of space for a law library, we believe a better interpretation of the statutes is to read R.C. 307.51(B) *in pari materia* with R.C. 307.01. While R.C. 307.51 requires a law library resources board to provide services related to operating a law library, R.C. 307.01 commands the board of county commissioners to provide a space for the law library, if space is needed.



reasonable discretion to select a suitable location for the law library. Accordingly, a county law library may be located at the county seat or in any other part of the county.<sup>5</sup>

### **County Board of Elections**

Every county has a board of elections composed of four electors of the county, who are appointed by the Secretary of State. R.C. 3501.06(A). R.C. 3501.10(A) states, in pertinent part, “[t]he board of elections shall, as an expense of the board, provide suitable rooms for its offices and records and the necessary and proper furniture and supplies for those rooms.” In addition, “[t]he board of elections may maintain permanent or temporary branch offices at any place within the county[.]” R.C. 3501.10(C). Insofar as no statute specifies where a permanent office for the board of elections shall be located in each county, the board of elections may exercise reasonable discretion to select a location for permanent offices for the board. Therefore, offices for a county board of elections shall be provided by the board of elections in any part of the county.

### **Governing Board or Superintendent of an Educational Service Center**

An educational service center constitutes “[t]he territory within the territorial limits of a county, or the territory included in a district formed under [R.C. 3311.053], exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes[.]” R.C. 3311.05(A). Essentially, an educational service center comprises the territory of local school districts. 2005 Op. Att’y Gen. No. 2005-033, at 2-345 n.1. Each educational service center is administered by a governing board. R.C. 3313.01; 2014 Op. Att’y Gen. No. 2014-012, at 2-95. The governing board of an educational service center appoints a superintendent who serves as the executive officer for the governing board. R.C. 3319.01. “[T]he superintendent is an employee of the board, is subject to the direction of the board, and is responsible for implementing policies and management decisions made by the board.” 2005 Op. Att’y Gen. No. 2005-033, at 2-349.<sup>6</sup>

An educational service center is an entity independent of the county. *See* 2001 Op. Att’y Gen. No. 2001-043, at 2-267 (“an educational service center is a body corporate and politic responsible for

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<sup>5</sup> Insofar as the services and resources of a county law library are often used by litigants and attorneys, it may be impractical, and pose an inconvenience, if the county law library is not located in proximity to the courthouse.

<sup>6</sup> R.C. 3319.01 addresses the appointment of a superintendent by a governing board of an educational service center or by a board of education of any school district. Regardless of whether the superintendent is appointed by the governing board of an educational service center or the board of education of a school district, the superintendent serves as the executive officer for the board and performs the same duties and functions for a board of education as he does for a governing board. R.C. 3319.01.

governmental activities in a geographic area smaller than that of the state. Therefore, an educational service center is a political subdivision for purposes of R.C. Chapter 2744”); *see generally* R.C. 3311.055 (when “school district” or “board of education” is used in R.C. Title 33 without expressly referring to city, local, exempted village, or joint vocational school districts, the terms include an educational service center and the governing board of an educational service center); R.C. 3313.17 (“[t]he board of education of each school district shall be a body politic and corporate, and, as such, capable of suing and being sued, contracting and being contracted with, acquiring, holding, possessing, and disposing of real and personal property, and taking and holding in trust for the use and benefit of such district, any grant or devise of land and any donation or bequest of money or other personal property”). As an independent entity, neither an educational service center nor its governing board is a county office for the purpose of R.C. 307.01(A). Accordingly, a board of county commissioners is not required by R.C. 307.01(A) or any other statute to provide offices for the use of the governing board or superintendent of an educational service center.<sup>7</sup>

Rather, the governing board of an educational service center is authorized to acquire or otherwise obtain office space for the purposes of the educational service center. *See* R.C. 3313.37(A)(2) (“[a] governing board of an educational service center may acquire, lease, or lease-purchase, or enter into a contract to purchase, lease or lease-purchase ... real ... property and may construct, enlarge, repair, renovate, furnish, or equip facilities, buildings, or structures for the educational service center’s purposes”); R.C. 3313.375 (“the governing board of an educational service center ... may enter into a lease-purchase agreement providing for construction; enlarging or other improvement, furnishing, and equipping; lease; and eventual acquisition of facilities, or improvements to facilities, including but not limited to buildings, playgrounds, parking lots, athletic facilities, and safety enhancements for any ... educational service center ... purpose”); R.C. 3313.39 (a board of education, including a governing board of an educational service center, may appropriate property). While the governing board of an educational service center has the authority to obtain office space for its purposes, no statute requires office space that is used by the governing board or a superintendent of an educational service center to be located in the county seat. Accordingly, offices

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<sup>7</sup> Pursuant to R.C. 3319.19(A), a board of county commissioners was required to provide, upon request, offices in the county for the use of the superintendent and governing board of an educational service center. 2001-2002 Ohio Laws, Part III, 4682 (Am. Sub. H.B. 94, eff. Sept. 5, 2001). That obligation terminated at the end of fiscal year 2006, so that beginning in fiscal year 2007, a board of county commissioners would have no obligation to provide office space for the governing board or superintendent of an educational service center. *Id.* at 4686. Even though it was already obsolete, R.C. 3319.19 was repealed by the General Assembly in 2012. Am. Sub. S.B. 316, 129th Gen. A. (2012) (eff. Sept. 24, 2012). The legislative history of R.C. 3319.19 confirms that a board of county commissioners is no longer required to provide office space for purposes related to an educational service center.

for the governing board or superintendent of an educational service center may be located in any part of the county.<sup>8</sup>

### **Board of Health of a General Health District**

The territory of the state is divided into health districts. R.C. 3709.01. The territory of each of the cities in a county constitutes a city health district, while the combined territory of the villages and townships in a county constitutes a general health district. *Id.* One or more city health districts may unite with a general health district to form a single general health district. R.C. 3709.07; R.C. 3709.071. Each general health district is governed by a board of health consisting of five members. R.C. 3709.02(A); R.C. 3709.36. “[A] general health district is a separate political subdivision of the state and is not a county office.” 2015 Op. Att’y Gen. No. 2015-017, at 2-179; *see also* 2010 Op. Att’y Gen. No. 2010-022, at 2-152 (“[h]ealth districts are independent political subdivisions and are not part of a county or municipal government”); 1991 Op. Att’y Gen. No. 91-016, at 2-80 (“[t]he health districts are political subdivisions of the state, governed by state law, and are separate from any city, county, township or other local government”). Consequently, a board of county commissioners is not required to provide offices or facilities for a general health district pursuant to R.C. 307.01(A).

However, R.C. 3709.34 states “[t]he board of county commissioners or the legislative authority of any city may furnish suitable quarters for any board of health or health department having jurisdiction over all or a major part of such county or city.” Although R.C. 3709.34 uses the term “may,” the statute has been construed as imposing a mandatory duty upon a board of county commissioners to provide office space for a general health district. 1985 Op. Att’y Gen. No. 85-003, at 2-7 (“[d]espite the use of the term ‘may,’ R.C. 3709.34 has been consistently interpreted as imposing a mandatory duty upon a board of county commissioners to furnish suitable quarters for a general health district”); 1972 Op. Att’y Gen. No. 72-098 (syllabus). An exception to that mandatory duty is with respect to general health districts that have been established pursuant to R.C. 3709.07 (the union of one or more city health districts with a general health district). 2007 Op. Att’y Gen. No. 2007-045, at 2-446; 1991 Op. Att’y Gen. No. 91-016, at 2-81 (“[a]n exception to the construction of R.C. 3709.34 as mandatory has ... been recognized when the health district in question is a combined general health district created pursuant to R.C. 3709.07, for the statute does not indicate whether the county or a city should bear the responsibility of providing office space in such circumstances”); 1985 Op. Att’y Gen. No. 85-003, at 2-8 n.1. With respect to a general health district formed pursuant to R.C. 3709.07, a board of county commissioners and the legislative authority of the city each have

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<sup>8</sup> Your letter also asks about the location of offices for a county superintendent of schools. The school districts of the state used to include county school districts. In 1995, the General Assembly renamed county school districts as “educational service centers.” 1995-1996 Ohio Laws, Part I, 1129 (Am. Sub. H.B. 117, eff. Sept. 29, 1995). An educational service center is, therefore, the successor to a county school district. 2001 Op. Att’y Gen. No. 2001-043, at 2-267; 1999 Op. Att’y Gen. No. 99-023, at 2-150 n.1. Accordingly, for the purpose of this opinion we have treated a “county superintendent of schools” as the superintendent of an educational service center.

discretion to provide offices to the board of health of the health district, but neither is required to do so. 2010 Op. Att’y Gen. No. 2010-022 (syllabus, paragraph 1); 1991 Op. Att’y Gen. No. 91-016 (syllabus, paragraph 2); 1985 Op. Att’y Gen. No. 85-003, at 2-8 n.1.<sup>9</sup>

The Geauga County General Health District is a combined general health district formed pursuant to R.C. 3709.07 by the union of a city health district and a general health district. The Geauga County Board of Commissioners is not required to, but may, provide office space for the board of health of general health district. The Revised Code does not specify where offices for the board of health of a general health district formed pursuant to R.C. 3709.07 shall be located.<sup>10</sup> Insofar

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<sup>9</sup> The syllabus paragraph of 1991 Op. Att’y Gen. No. 91-015 advises that “[a] board of health of a combined general health district created under R.C. 3709.07 has no authority to acquire real property or to borrow money or enter into a lease-purchase agreement in order to provide office space for the health district.” The fourth syllabus paragraph of 1991 Op. Att’y Gen. No. 91-016 approves and follows that opinion and similarly advises that “[t]he board of health of a combined general health district created under R.C. 3709.07 has no authority to acquire real property except by gift or devise and, accordingly, may not use operating levy funds to purchase suitable quarters for the health district.”

In 2011, the General Assembly enacted R.C. 3709.341 that authorizes a board of county commissioners to “donate or sell property, buildings, and furnishings to any board of health of a general or combined health district.” Am. Sub. H.B. 153, 129th Gen. A. (2011) (eff. Sept. 29, 2011). In addition, in 2012, the General Assembly amended R.C. 3709.36 by adding the following paragraph:

The board of health of a city or general health district or the authority having the duties of a board of health under [R.C. 3709.05] shall, for the purpose of providing public health services, be a body politic and corporate. As such, it is capable of suing and being sued, contracting and being contracted with, *acquiring, holding, possessing, and disposing of real and personal property*, and taking and holding in trust for the use and benefit of such district or authority any grant or devise of land and any domain or bequest of money or other personal property.

Am. Sub. H.B. 509, 129th Gen. A. (2012) (eff. Sept. 28, 2012) (emphasis added).

As a result of those legislative enactments, the advice in 1991 Op. Att’y Gen. No. 91-015 (syllabus) and 1991 Op. Att’y Gen. No. 91-016 (syllabus, paragraph 4) is no longer an accurate statement of the law. Accordingly we overrule 1991 Op. Att’y Gen. No. 91-015, and overrule, in part, 1991 Op. Att’y Gen. No. 91-016, as a result of legislative enactment.

<sup>10</sup> If a general health district has been established as a result of a union of two or more general health districts, “the office of the board of health shall be located at the county seat of the county

as the statute does not specify the location of offices for the board of health of a general health district, which was formed pursuant to R.C. 3709.07 as a union of a city health district and a general health district, those offices may be located at the county seat or in any other part of the county.

### **Conclusions**

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. The general division of a court of common pleas shall be located at the county seat, unless the seat of justice has been removed from the county seat pursuant to R.C. 301.04.
2. Offices for the clerk of a court of common pleas, which are used for performing the clerk's duties with respect to the court of common pleas and the court of appeals, may be located at the county seat or in any other part of the county. It may be impractical, however, to locate offices of the clerk of a court of common pleas, which are used in the performance of the clerk's duties with respect to the court of common pleas and court of appeals, at a location that is not in the same building as, or in proximity to, the court of common pleas and the court of appeals.
3. A county law library and offices for a county law library resources board may be located at the county seat or in any other part of the county.
4. Offices for a county board of elections shall be provided by the board of elections and may be located in any part of the county.
5. Offices for the governing board or superintendent of an educational service center shall be provided by the governing board of the educational service center and may be located in any part of the county.
6. Offices for the board of health of a general health district that was formed pursuant to R.C. 3709.07 as a union of a city health district and a general health district may be located at the county seat or in any other part of the

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selected by the joint board of district advisory councils.” R.C. 3709.10. The Geauga County General Health District is not a general health district formed pursuant to R.C. 3709.10.

county. (1991 Op. Att'y Gen. No. 91-015, overruled, and 1991 Op. Att'y Gen. No. 91-016, overruled, in part, as a result of legislative enactment.)

Very respectfully yours,

A handwritten signature in blue ink that reads "Michael Dewine". The signature is written in a cursive, flowing style.

MICHAEL DEWINE  
Ohio Attorney General