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WHEN SCHOOL DISTRICT IS LOCATED IN MORE THAN ONE COUNTY SCHOOL FUNDS SHOULD BE APPORTIONED AND PAID BY COUNTY AUDITOR OF EACH SUCH COUNTY DIRECTLY TO PARTICULAR SCHOOL DISTRICT WHICH IS LOCATED PARTLY IN HIS COUNTY.

SYLLABUS:

Pursuant to Section 3315.32, Revised Code, when a school district is located in more than one county, school funds should be apportioned and paid by the county auditor of each such county directly to the particular school district which is located partly in his county.

Columbus, Ohio, October 27, 1959

Hon. James A. Rhodes, Auditor of State
State House, Columbus, Ohio

Dear Sir:

I have before me your request for my opinion, which request reads as follows:

“A question has arisen as to what distribution of moneys is to be made by the County Auditor of one county with school districts located either in an adjoining county or for payments to be made to such school districts in which the territory of the district is in two or more counties.

“It has been the practice for the Auditor in making settlements with outside school districts to send his warrant and apportionment sheet to the County Auditor of the county in which the greater tax valuation apportionment of the district is located.

“In Champaign County, the Auditor desires to make the settlement directly with the school district in Logan County.

“A formal opinion is respectfully requested:—

“When a school district is located in more than one county, shall the warrant by the County Auditor of the one county be made payable directly to the school district, or shall the warrant be drawn by the County Auditor in favor of the County Treasurer of the county in which the school district has its legal situs.”

Your attention is drawn to Section 3315.32, Revised Code, which provides for the method of apportionment of school funds by the county auditor and which reads as follows:

“After each semiannual settlement with the county treasurer each county auditor shall immediately apportion school funds for his county. Money received from the state on account of interest on the common school fund shall be apportioned to the *school districts and parts of districts within the territory designated* by the auditor of state as entitled thereto on the basis of the total enumeration of youth of school age in each whole district entitled thereto, and the enumeration of youth of school age residing in parts of districts so entitled. *All other money* in the county treasury for the support of common schools and not otherwise appropriated *shall be apportioned annually to the school districts and parts of districts* in the county in proportion to their respective numbers of pupils in average daily membership used as a basis for the distribution of state funds under sections 3317.02 and 3317.05 of the Revised Code.” (Emphasis added)

In the above quoted statute it states that school funds “shall be apportioned annually to the school districts and *parts of districts* in the county.” The statute does not state that the county auditor need send the funds for a part of a school district that lies in his county to the county “in which the greater tax valuation apportionment of the district is located,” as has been the practice in Ohio as disclosed in your letter. This practice is probably a holdover from Section 7599, General Code, which read in part as follows:

“The funds belonging to a district composed of territory in more than one county shall be paid by the treasurers of the other counties to the treasurer of the county having the greatest tax valuation in such district. * * *”

Under this General Code statute school funds were sent to the treasurer of the county in which the greater tax valuation was found. This

meant the school district received all its funds directly from the auditor of the county in which it had its legal situs. However, in a general code revision in 1943, which changed many of the statutes on school districts, this requirement was repealed. 120 Ohio Laws, 475 (609).

Since 1943 the method of apportionment of school funds to be followed by the county auditor has been controlled by Section 3315.32, Revised Code (Section 4847-18, General Code, prior to 10/1/53), which states that the county auditor shall apportion the school funds *directly* to the school districts or *parts of districts* in the particular county.

As no other logical meaning can be imparted to the phrase "parts of districts" than that of a school district divided by a county line, it would appear that Section 3315.32, Revised Code, provides the answer to your question. While this statute uses the word "apportion" and not "pay," it will be presumed that in the absence of a statute directing a different method of payment the word "apportion" will be construed as including the actual distribution of the funds in question.

Accordingly, it is my opinion and you are advised that pursuant to Section 3315.32, Revised Code, when a school district is located in more than one county, school funds should be apportioned and paid by the county auditor of each such county directly to the particular school district which is located partly in his county.

Respectfully,
MARK McELROY
Attorney General