

but this sentence when applied to section 7188-1 is clearly directory and not mandatory in the matter of time, especially as a continuing duty is imposed on the county surveyor by the provisions of the last sentence of said section 7188-1, as well as by the provisions of section 1187. In short, the element of time specified in the sentence last quoted was intended to secure a prompt compliance with the terms of section 7188-1, and does not go to the essence of the action prescribed by the latter section; for which reason, a failure of the county surveyor to act within in time limited does not relieve that officer of the duty cast upon him by the several sections quoted above.

The assistance needed by the surveyor in the matter of making the maps in question may of course be taken into account in connection with the surveyor's "salary fund" allowance as mentioned in section 2980 G. C. (108 O. L. Pt. II, p. 1216).

General answer to your inquiries may therefore be made by the statement that it is the duty of the county surveyor, under the direction and supervision of the state highway commissioner to prepare and furnish the county commissioners a copy of a road map of the county as described in section 7188 G. C.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1561.

SCHOOLS—PRINCIPAL OF HIGH SCHOOL OR GRADE SCHOOL IF NOT EMPLOYED AS SUPERINTENDENT IS STILL A TEACHER WITHIN MEANING OF SECTION 7600 G. C.—HOW FUNDS PROVIDED IN SECTION 7600 G. C. ARE TO BE DISTRIBUTED WHERE HIGH SCHOOL PRINCIPALS AND GRADE SCHOOL PRINCIPALS ARE TEACHERS.

In the light of section 7705, G. C., the principal of a high school, or a grade school, if not employed as a superintendent, is still a teacher within the meaning of section 7600 G. C. and distribution of the funds mentioned in such section should be made on the basis that high school principals and grade school principals are teachers within the meaning of such section.

COLUMBUS, OHIO, September 10, 1920.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your letter of August 24, 1920, requesting opinion of this department on the following statement of facts:

"According to section 7600 G. C. 'The annual distribution attributable to teachers and employes shall be according to the following schedule: Twenty-five per centum of the salary of each teacher 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 six hundred dollars for any such teacher or other person,' and further,

'The proceeds of the levy required by section seven thousand five hundred and seventy-five to be retained in the county shall be apportioned to each school district and part of district on a like basis of teachers and other persons employed and aggregate days of attendance of pupils, excepting that the apportionment attributable to teachers and other employes shall be twelve and one-half per centum of the salaries of such teachers as are mentioned in this section, but not to exceed three hundred dollars for any such teacher.'

The question has arisen, therefore, whether under provision of these sentences of that section a high school principal or grade school principal, who does not teach all of the time shall be included in the term 'teacher' or 'other person.' Some of the high school and grade school principals do not teach any of the time but spend all of their time in supervisory duties.

The questions therefore are:

A. Shall the salary of a principal who teaches none of the time be included in the above distribution?

B. Shall the salary of a principal who teaches part of the time be included in the above distribution and if so would it be the entire salary or only the part of it which represents the part of the time devoted to teaching?"

A question largely similar to this was passed upon in Opinion No. 1226, issued to your department on May 8, 1920. Referring to the use of the word teacher in sections 7600, 7603, etc., of House Bill 615, that opinion says:

"* * * By a previous opinion of this department you have been advised that the word 'teacher' as it occurs in such sections as section 7600, 7603, etc., as amended in House Bill 615, is used in the same sense in which it has always been used in these sections of the General Code; and that that sense, generally speaking, *excludes superintendents from the scope of the meaning of the term.* The position referred to in section 4740 partaking more or less of the character both of teacher and of superintendent would seem to require separate consideration. * * *

It will be noted in the above opinion that only superintendents are excluded from the meaning of the word "teachers" as such term occurs in section 7600 G. C., to which you refer. Continuing, the opinion further says:

"Section 7600 provides that there shall be a distribution of the state levy on the basis of 'twenty-five per centum of the salary of each teacher receiving a salary of not less than eight hundred dollars' and distribution of the state levy retained in the county on the basis of twelve and one-half per centum of the salaries 'of such teachers as are mentioned in this section.' The question which now arises is as to whether or not in determining the amount of the salary of the superintendent under section 4740 for the purpose of applying the eight hundred dollar minimum requirement of the law, the whole salary paid to such 'superintendent shall be considered or merely such part of his salary as represents teaching service.' It is believed that the latter is the only conclusion consistent with the principle which has been laid down herein; and that in determining whether or not a part time 'superintendent' employed under section 4740 receives a salary of more than eight hundred dollars, only such part of his salary as, on a strict time basis, is referable to his teaching service can be considered."

The primary question then before us is, whether a high school principal or a grade school principal comes within the word "teacher," as it appears in section 7600 G. C. It may be said that while there are a number of sections of the statutes dealing specifically with the affairs of superintendents, engaged in school work, the statutes are very largely silent upon those persons who are designated or referred to as "principals" in the public schools. You indicate in your letter that some of these principals spend all of their time in "supervisory duties." This can hardly be true in the strict sense of the use of the word "supervisory," for the principal, as such, whether in a high school or in a grade school, does not possess any independent supervisory authority, but in almost all cases, even in a 4740 district, is under a superintendent employed as such in that school district. The duties of a principal are largely disciplinary in his school, partaking in a nature of supervisory duties, but the latter cannot be considered as being of such a scope as to make him a superintendent in any degree and thus fall within the language of the statute relative to a part time superintendent, as construed in opinion 1226, as heretofore cited. Rather is the principal detailed or designated, while still a teacher, to be the principal of such high school or grade school for disciplinary purposes, having, of course, supervision over both teachers and pupils, but not the power or authority of the superintendent.

Attention is invited to the language of section 7705 G. C., which reads in part as follows:

"* * * In all high schools and consolidated schools *one of the teachers shall be designated by the board as principal* and shall be the administrative head of such school."

This is practically the only section of the statutes which speaks of a principal in connection with his being a teacher, and this section does say that the person, while still a teacher, shall be designated as "principal" in all high schools and consolidated schools for the purpose of being the administrative head of such school, that is, the person designated to administer the rules and regulations and policies required by the superintendent or possibly the part time superintendent.

It must therefore be held, in the light of section 7705, that the principal of a high school, or a grade school, if not employed as a superintendent, is still a teacher within the meaning of section 7600 and distribution of the funds mentioned in such section should be made on the basis that the principals mentioned are teachers within the meaning of such section.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1562.

APPROVAL, BONDS OF GARFIELD HEIGHTS VILLAGE SCHOOL DISTRICT IN AMOUNT OF \$80,000 FOR ERECTION OF SCHOOL BUILDING.

COLUMBUS, OHIO, September 10, 1920.