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TEACHERS OF LOCAL SCHOOL DISTRICT—EXPENSES INCURRED IN ATTENDANCE, MEETING OF TEACHERS CALLED BY COUNTY BOARD OF EDUCATION—HELD IN CITY SCHOOL DISTRICT OR ELSEWHERE — MAY NOT LEGALLY BE PAID BY LOCAL BOARD OF EDUCATION FROM SERVICE FUND CREATED UNDER SECTION 4845-8 G. C.

SYLLABUS:

Expenses incurred by the teachers of a local school district in attending a meeting of teachers called by the county board of education and held in a city school district or elsewhere, may not legally be paid by the local board of education from the service fund created under the provisions of Section 4845-8, General Code.

Columbus, Ohio, January 30, 1945

Bureau of Inspection and Supervision of Public Offices  
Columbus, Ohio

Gentlemen:

This will acknowledge receipt of your letter of recent date relating to the authority of a local board of education to pay from its service fund expenses incurred by its teachers in attending teachers meetings called by the county board of education, and held outside the local school district. Your letter, omitting formal parts, reads as follows:

“Since the repeal of the laws providing for County Institutes, many County Boards of Education have adopted the practice of calling meetings of the teachers, employed by the local boards of education, on designated Saturdays during the school term. Such meetings are held at the county seat of the county.

May we respectfully request your opinion upon the following:

QUESTION: Where a meeting of teachers has been called by the County Board of Education, and such meeting is held on Saturday at the county seat of said county, which is a city, may a local board of education pay the expenses of its

teachers who attend such meeting from the 'Service Fund', created under the provisions of Section 4845-8, General Code?"

Section 4845-8, General Code, reads as follows:

"On the third Monday of every January or on the Monday preceding the close of school each year, the clerk of the board of education of any school district shall certify to the board of education of which he is clerk, the number of pupils enrolled in the public school of that district, whereupon the board of such school district may by resolution set aside from the general fund a sum not to exceed five cents for each child so enrolled, or \$300.00, whichever is greater, such sum of money to be known as the 'service fund' to be used only in paying the expenses of such members actually incurred in the performance of their duties, or of their official representatives when sent out of the school district for the purpose of promoting the welfare of the schools under their charge; such payments to be made only on statement of the several members, or their official representatives, furnished at the last meeting held in each month."

The law is well settled in this state that boards of education, being creatures of statute, have only such powers and authority as are expressly conferred by the law of their creation or clearly implied. One of the latest decisions on this subject is *Board of Education v. Ferguson*, Auditor, 68 O. App., 614, decided by the Court of Appeals of Franklin County. The first paragraph of the syllabus reads as follows:

"The authority of boards of education is derived solely from the statutes and is limited strictly to such powers as are expressly granted or clearly implied."

A large number of Ohio cases beginning with *Board of Education v. Volk*, 72 O. S., 469, and ending with *State, ex rel. Clark v. Cook*, Auditor, 103 O. S., 465, are cited by the court in support of its conclusions.

In a recent opinion of this office reported in *Opinions of the Attorney General for 1943*, No. 5846, page 108, and involving the authority of a board of education to expend public funds, it was said:

"It is equally well settled that the authority of administrative boards, such as boards of education, to act in financial transactions must be clearly and distinctly granted and if such authority is of doubtful import the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the political subdivision for which the board acts."

It will be noted that Section 4845-8, General Code, expressly limits the purposes for which the service fund may be used. In other words, the statute provides that this fund may be used only in paying the expenses of board members actually incurred in the performance of their duties, or of their official representatives when sent out of the district for the purpose of promoting the welfare of the schools under their charge. There is no authority under the statute to use the service fund in paying expenses incurred by teachers in attending teachers' meeting at the invitation or call of the county board of education, and held at a county seat located in a city school district or elsewhere, because, in my opinion, these teachers are employes, and cannot be classed as "official representatives" of their respective boards when attending meetings in the capacity of teachers. Even were it possible to class these teachers as "official representatives" in any case, it would still be necessary that they be sent out of their districts by their own local boards of education to entitle them to have their expenses paid from the service fund. An attendance at the invitation or at the call of the county board of education would not be sufficient under the statute.

You are therefore advised that expenses incurred by the teachers of a local school district in attending a meeting of teachers called by the county board of education and held in a city school district or elsewhere, may not legally be paid by the local board of education from the service fund created under the provisions of Section 4845-8, General Code.

Respectfully,

HUGH S. JENKINS  
Attorney General