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BOARD OF EDUCATION CAN ACCEPT BUILDING FOR SCHOOL ROOM USE FOR A LIMITED PERIOD OF TIME, AND MAY SPEND MONEY NECESSARY TO MAKE BUILDINGS SUITABLE FOR SUCH USE. §§ 3313.36, 3313.37, R.C.

SYLLABUS:

Under authority of Sections 3313.36 and 3313.37, Revised Code, the board of education of a local school district is authorized to accept a gift of the use of buildings for school rooms on a loan free basis for a limited period of time, and may spend funds to temporarily repair and convert the buildings when the expenditure is necessary to put the buildings into a condition suitable for use as school rooms.

Columbus, Ohio, November 30, 1961

Hon. Dennis J. Callahan, Prosecuting Attorney
Lawrence County, Ironton, Ohio

Dear Sir:

Your request for my opinion reads:

“Re: Emergency class rooms

Fairland Local School District

“I am in receipt of request from the executive head of the Fairland Local School District, for an opinion as to the legality of said school district using two buildings owned by the Federal Government situated on an abandoned lock and dam site, within the Fairland Local School District. The Federal Government will allow the school district to use the buildings on a free loan basis for twenty months, or two school years, and the only requirement being made by the Federal Government is that the School District maintain the buildings. It will be necessary to remove partitions and convert the furnaces or heating equipment to gas, and to install temporary chalk boards, all of same to be paid for when the repairs are completed.

“I would appreciate your advising me as to whether or not this School District may legally expend funds for such temporary repairs and/or conversion, and further, if there are any reasons why the School District should not use these buildings, as there is a serious shortage of space within said School District.”

Section 3313.17, Revised Code, makes it clear that any board of education may acquire and hold real property or take and hold any grant of land. Section 3313.36, Revised Code, which is more closely on point, reads :

“By the adoption of a resolution, a board of education may accept any bequest made to it by will or may accept any gift or endowment from any person or corporation upon the conditions and stipulations contained in the will or connected with the gift or endowment. For the purpose of enabling the board to carry out the conditions and limitations upon which a bequest, gift, or endowment is made, it may make all rules and regulations required to fully carry them into effect. No such bequest, gift, or endowment shall be accepted by the board if the conditions thereof remove any portion of the public schools from the control of such board.”

It is my opinion that the offer by the federal government to lend buildings rent free is a gift which the board may accept pursuant to Section 3313.36, Revised Code. Furthermore, the requirement that the board maintain the buildings during the period of the loan is a “condition * * * connected with the gift” and is expressly authorized by the section.

The question that arises next concerns the permissibility of spending funds for temporary repairs and conversions. Authority for this is implicit in Section 3313.37, Revised Code, reading in part:

“The board of education of any school district, except a county school district, may build, enlarge, repair, and furnish the necessary schoolhouses, purchase or *lease* sites therefor, or rights of way thereto, or purchase or *lease* real estate to be used as playgrounds for children or *rent* suitable schoolrooms, either within or without the district, and provide the necessary apparatus and make all other necessary provisions for the schools under its control.

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(Emphasis added)

Here the authority to lease sites and to rent school rooms is authority to acquire and hold property for a limited period of time. In such cases all expenses incurred in getting the property into a condition suitable for use result in spending funds for temporary repairs and conversions. Authority to make such expenses is necessarily implied in the authority, which is specifically granted, to acquire the temporary site that is the occasion for the temporary repair or conversion.

The actual decision to do what it is authorized to do can be made only by the board of education. This should be made after weighing such factors as availability of funds, permanence of the need for additional space, cost of the temporary conversions, and other factors more easily identified by the local board of education.

In answer to your specific question, therefore, it is my opinion and you are advised that under authority of Sections 3313.36 and 3313.37, Revised Code, the board of education of a local school district is authorized to accept a gift of the use of buildings for school rooms on a loan free basis for a limited period of time, and may spend funds to temporarily repair and convert the buildings when the expenditure is necessary to put the buildings into a condition suitable for use as school rooms.

Respectfully,
 MARK McELROY
 Attorney General