

In view of this last provision it is clear that boards of education may contract with local retail dealers to furnish text books. Such contract, however, must always be subject to the limitation that such books must be provided "at prices above specified," to-wit, the price fixed by the following language: "the price paid the publisher and not to exceed ten per cent added."

The board of education as one of the terms of such contract may or may not require the local dealer to pay the transportation charges. In the event that no local dealer will agree to a contract whereby he is to pay the transportation charges, the board of education would still have authority to pay same. Under either arrangement the pupil must not be required to pay more than the price paid the publisher and not to exceed ten per cent added.

Therefore, in answer to your specific inquiries you are advised that when boards of education contract with local retail dealers to furnish text books as provided by sections 7714 and 7715 G. C., such boards would still have authority to pay the transportation charges, but if so agreed under the terms of such contract, same shall be paid by the local dealer.

When such transportation charges are paid by the local dealer, same cannot be added to the cost of the books when purchased by the pupils, for the reason that such books must always be sold to the pupils at the price paid the publisher and not to exceed ten per cent added.

Respectfully,  
C. C. CRABBE,  
*Attorney-General.*

3719.

SCHOOLS—AUTHORITY OF BOARDS OF EDUCATION TO ASSIGN PUPILS  
TO OTHER DISTRICTS DISCUSSED—CAPACITY OF SCHOOL BUS.

*SYLLABUS:*

1. *The board of education of a given district may contract with the board of education of another district for the admission of pupils into the schools of such other districts, but such contract does not effect an assignment of the pupils of the first mentioned district to a school district outside of the district of their residence, and said pupils cannot thereby be required or compelled to attend the school in the adjacent district.*

2. *The regulation of the number of children that may be conveyed in a school bus is largely within the discretion and control of the board of education making the contract for the transportation of pupils.*

COLUMBUS, OHIO, October 18, 1926.

HON. HUGH BINGHAM, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—This will acknowledge receipt of yours of recent date in which you request my opinion on the following statement of facts:

"It is desired by the board of education of one of our rural districts in this county to assign certain pupils living far away from their centralized school to a school in the adjacent district, which is outside of the county school district. Their reason for wishing so to do is that the trucks of the adjacent school district pass by the residences of said pupils and they can contract on a very reasonable basis with the board of the adjacent district for tuition and transportation, such contract being authorized by section 7734 of the General

Code. However, the parents of these pupils do not wish to have them go to the school of the other district, although the school is nearer and the truck not so crowded.

Would the proposed contract made under authority of said section be an effective assignment of these pupils and could they be forced to attend the school in the adjacent district?

What rule or regulation is there with regard to what is the maximum load for a school truck?'

In reply to your inquiry your attention is directed to the provisions of sections 7681, 7684 and 7734 of the General Code, which read as follows:

"The schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district, but the time in the school year at which beginners may enter upon the first year's work of the elementary schools shall be subject to the rules and regulations of the local boards of education. Inmates of the proper age of county, semi-public and district children's homes shall be admitted after the manner described in section 7676. The board of education may admit the inmates of a private children's home or orphan asylum located in the district, with or without the payment of tuition fees, as may be agreed upon; provided any child who is an inmate of such a home or asylum and previous to admission was a resident of the school district in which such home or asylum is located shall be entitled to free education; and provided, any such inmate who attends the public schools was prior to admission to such home or asylum a resident of another school district of the state of Ohio and a tuition fee is charged the same method of reimbursement shall be followed as is provided in sections 7677 and 7678; and provided further, for any such inmate who attends the public schools and who prior to admission to such home or asylum was not a resident of the State of Ohio, such home or asylum shall pay from its own funds such tuition as may be agreed upon. But all youth of school age living apart from their parents or guardians and who work to support themselves by their own labor, shall be entitled to attend school free in the district in which they are employed."

"Boards of education may make such an assignment of the youth of their respective districts to the schools established by them as in their opinion best will promote the interests of education in their districts."

"The board of any district may contract with the board of another district for the admission of pupils into any school in such other district, on terms agreed upon by such boards. The expense so incurred shall be paid out of the school funds of the district sending such pupils."

Under the provisions of section 7681 G. C. supra, it is clear that the schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district. Unless there are other provisions of the code clearly authorizing the assignment of pupils outside the district of their residence, the above section would control.

Section 8684 G. C. supra, provides that boards of education may make such an assignment of the youth of their respective districts to the schools established by them as in their opinion will best promote the interests of education in their districts, but it is not believed that this provision is broad enough to authorize assignment of pupils outside the district, for the reason that the language of the section confines the board in their assignment of pupils "to the schools established by them", and, furthermore, a board of education has no control over schools outside the district.

It is true that section 7734 G. C. supra, provides for the admission of pupils to a school of another district, but is not broad enough to authorize a board of education to require pupils to attend schools outside the district of their residence.

Further, in this connection, your attention is directed to a former opinion of this department, to which you have already referred, being Opinions of Attorney-General for the year 1918, page 927, wherein the above quoted sections were discussed, and where it was held:

“A board of education has no authority to assign pupils to schools outside of the district over which such board has jurisdiction.”

Therefore, I am of the opinion, and you are advised, that notwithstanding the board of education of a given district may contract with the board of education of another district for the admission of pupils into the schools of such other district, such contract does not effect an assignment of the pupils of the first mentioned district to a school district outside of the district of their residence, and said pupils cannot thereby be required or compelled to attend the school in the adjacent district.

With reference to your second question concerning the maximum load for a school truck, you are advised that I find no provision of statute concerning same, and it would therefore seem that the matter of the regulation of the number of children that may be conveyed in a school bus would be largely within the discretion and control of the board of education making the contract for the transportation of pupils.

Respectfully,

C. C. CRABBE,  
*Attorney-General.*

3720.

#### MUNICIPAL SCHOOL DISTRICT—ANNEXATION OF TERRITORY—DISTRIBUTION OF FUNDS DISCUSSED.

##### SYLLABUS:

*Territory annexed by a municipality for municipal purposes becomes a part of a municipal school district by such annexation and the municipal school district is not entitled to a distribution of the funds collected by the district from which such territory is detached.*

COLUMBUS, OHIO, October 18, 1926.

HON. ALBERT H. SCHARRER, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—I am in receipt of your communication as follows:

“In July, 1926, the village of Oakwood, this county, annexed to itself part of the territory of Van Buren Township. The territory annexed automatically became part of the village of Oakwood School District. The time now being at hand for the semi-annual distribution of taxes, the village of Oakwood School District is claiming a proportionate amount of the distribution to be made to the Van Buren Township Rural School District. The Van Buren Township Rural School District claims that it has appropriated all of the money to be distributed to it at this time for the payment of teachers, etc., and demands that it receive the entire amount that would be distributed to it, the same as if part of its territory had not been annexed to the Village of Oakwood.