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A BOARD OF EDUCATION MAY FORBID PUPILS FROM LEAVING THE SCHOOL GROUNDS DURING SCHOOL HOURS. §3313.20, R.C.

SYLLABUS:

Under Section 3313.20, Revised Code, authorizing a board of education to adopt necessary rules for its government and the government of its employees and pupils, a board of education may adopt a rule forbidding students to leave school grounds during school hours, including the midday meal hours, even though the effect is to prevent students from taking their midday meals under the supervision of their parents at home, or with the permission of their parents, from eating in a public restaurant not on the school grounds.

Columbus, Ohio, December 21, 1962

Hon. John D. Sears, Jr., Prosecuting Attorney
Crawford County, Bucyrus, Ohio

Dear Sir:

In your request for my opinion, you ask a question as follows:

"I respectfully request your opinion as to whether or not a Board of Education may adopt a rule forbidding students to leave the school grounds upon the request of the student's parents to take their midday meal under the supervision of their parents at home or with the permission of the parents to eat in a public restaurant."

Section 3313.20, Revised Code, provides that a board of education shall make such rules and regulations as are necessary for its government and the government of its employees and the pupils of the schools. As to this power, it is stated in 48 Ohio Jurisprudence 2d. 488, Section 81:

"The Code empowers a board of education to make such rules and regulations as are necessary for its government and the government of its employees and the pupils of the schools. This statute, together with the general statutes concerning the powers of such boards, confers upon such boards plenary authority and responsibility for the proper conduct, control, regulation, and supervision of its employees, the pupils, and the entire school system of the district. Its authority in these respects is unlimited except to the extent that it is curtailed by express law. The board is bound by the rules and regulations thus made for its govern-

ment, unless suspended in a legal manner, and, in the absence of fraud, abuse of discretion, arbitrariness, or unreasonableness, a court will not interfere with the authority of the board of education to make rules and regulations nor substitute its judgment for that of the board on matters delegated to it to decide in conducting the affairs of the schools. * * *

In view of the above, the rule in question would appear to be valid providing it is not arbitrary or unreasonable.

I have not found any Ohio court decisions on the precise subject here in question; however, the question concerned has been construed in other jurisdictions. In this regard, it is stated in 47 American Jurisprudence, 426, Section 172:

“Reasonable rules prescribed by school authorities forbidding students to leave the school grounds during school hours are valid even though the effect is to prevent pupils from taking their midday meals under the supervision of their parents or to cause them some inconvenience or hardship in patronizing an outside music teacher.”

Citing Christian v. Jones, 211 Ala. 161; *Flory v. Smith*, 145 Va., 164.

Alson, in *Casy County Board of Education v. Luster*, (Ky.), 282 SW 2d, 333, it was held:

“A school rule which prohibited any pupil while in school to enter a nearby restaurant, was not unreasonable nor arbitrary.”

It is true that some parents might deem a rule such as the one in question to be too restrictive; however, one must also consider the great responsibility that schools have as to students under their charge, and the definite problem that is presented as to proper supervision during midday hours. In this regard, I can well conceive of situations where the location of the school, and other factors, might make such a rule almost imperative for the proper maintenance of discipline.

Accordingly, it is my opinion and you are advised that under Section 3313.20, Revised Code, authorizing a board of education to adopt necessary rules for its government and the government of its employees and pupils, a board of education may adopt a rule forbidding students to leave school grounds during school hours, including the midday meal hours, even though the effect is to prevent students from taking their midday

meals under the supervision of their parents at home, or with the permission of their parents, from eating in a public restaurant not on the school grounds.

Respectfully,
MARK McELROY
Attorney General