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SCHOOL DISTRICT—LOCAL OR EXEMPTED VILLAGE—BECOMES CITY SCHOOL DISTRICT—MEMBERS OF EXISTING SCHOOL BOARD CONTINUE TO SERVE AS MEMBERS, CITY SCHOOL BOARD, REMAINDER OF TERMS FOR WHICH ELECTED—SECTION 4830-6 G. C.

SYLLABUS:

When a local or exempted village school district becomes a city school district as provided by Section 4830-6, General Code, the members of the existing school board continue to serve as members of the city school board for the balance of the terms for which they were elected.

Columbus, Ohio, August 2, 1951

The Hon. Frank T. Cullitan, Prosecuting Attorney
County of Cuyahoga, Cleveland, Ohio

Dear Sir:

I have your request for my opinion which reads as follows:

"In Cuyahoga County six municipalities heretofore classified as villages will under the 1950 census become cities, to-wit, Bay, Brooklyn, Fairview Park, Lyndhurst, Mayfield Heights and North Olmstead. Under the provisions of Section 4830-6, General Code, the local or exempted village school districts in the above named municipalities will become city school districts.

"We advised the village school districts that they would be required to elect new city school boards at the general election in 1951, regardless of the expiration dates of the terms of the present board members. We also advised these boards that the present school board members would, under the provisions of Section 8 of the General Code, hold their offices only until the members of the new city school board would be elected and qualified. Our advice was based upon the 1931 Opinion of the Attorney General No. 3181, page 589.

"Since rendering the above opinion, our attention has been directed to your informal opinion No. 19, under date of June 29, 1951, rendered to the Hon. Marvin E. Young, Prosecuting Attorney of Warren County, in which you arrive at a contrary conclusion. I believe that it would be desirable to have a ruling of uniform application in the State. Inasmuch as candidates for the boards of education involved must file their petitions with the Board of Elections not later than August 7, 1951, I would respectfully request your formal opinion on this question as soon as possible."

My informal Opinion No. 19, dated June 29, 1951, to which you referred is as follows:

"Hon. Marvin E. Young, Prosecuting Attorney
Warren County, Lebanon, Ohio

"Dear Sir:

"I have your request for my opinion, which reads as follows:

"I wish to request your opinion regarding the following: The Franklin Exempted Village School District of Warren County will become a city school district under the

1950 federal census. Three members of the school board of this district were elected in 1949 for four (4) years each, and the other two members of the five (5) member board were elected in 1947 and their term expires this year. This school board has requested my opinion as to whether or not the terms of all five (5) members will expire at the end of 1951 because of the change to a city school district, or if the three (3) members elected in 1949 will serve out their complete term.

“I have studied General Code Sections 4832 and 4832-1, and the annotations on the sections. The Attorney General’s Opinion of 1920, Vol. 1, Page 162, although not in point indicates to me that the terms of all of the members would not expire.’

“It seems to me that this question is answered by a consideration of present Section 4830-6, General Code, as compared with its predecessor statute and the interpretations of that former statute.

“Former Section 4686, General Code, provided as follows:

“‘When a village is advanced to a city, the village school district shall thereby become a city school district. When a city is reduced to a village, the city school district shall thereby become a village school district. The members of the board of education in village school districts that are advanced to city school districts, and in city school districts that are reduced to village school districts shall continue in office until succeeded by the members of the board of education of the new district, who shall be elected at the next succeeding annual election for school board members.’

“In three opinions, numbers 3126, 3181 and 3185, Opinions of the Attorney General for 1931, pages 514, 589 and 596, it was held that this section required the election of a complete new board at the next election of school board members.

“In 120 O. L. 475 (504), effective September 16, 1943, present Section 4830-6, General Code was enacted. That section provides in part as follows:

“‘When a local or exempted village school district contains within its territorial boundaries the major portion of the territory lying within the corporate limits of an incorporated village advanced to a city, such school district shall become a city school district. * * *:

“It is to be noted that the former provision as to the members of the board of the ‘new district’ succeeding the old board has been omitted. It must be presumed that the General Assembly was familiar with the interpretation given to the former

language, and that it had some purpose in enacting the new provision. The most logical reason for the new language seems to me to be that the General Assembly intended for the continuity between the old board and the new one to be uninterrupted.

“Nothing about the school district in question has been changed except the status of exempted village. It seems to be the intent of the law, exemplified by Section 4830-6 under consideration here, and Sections 4830-7, 4830-8 and 4830-9, dealing with the changes from local to exempted districts and vice versa, that districts and boards shall change their status without any other break in continuity.

“In answer to your question, it is, therefore my opinion that, assuming the number of members of the board will be set at five, the number of members of the Franklin city school district to be elected in 1951 will be two. Those members who were elected to the Franklin exempted village school board in 1949 will continue to serve as members of said city board.”

At the time I rendered my Informal Opinion No. 19, I had before me only one request concerning the transition from local to city Board of Education, and the numerous applications of that problem were not at once apparent. I did not intend that my answer to the question there presented should be of local or restricted application only. It is for that reason that I have republished my Informal Opinion in this matter as a Formal Opinion to you. So far as it applies to the situation which you have presented, it should be so applied by you.

In specific answer to the question which you have presented, therefore, it is my opinion that when a local or exempted village school district becomes a city school district as provided by Section 4830-6, General Code, the members of the existing school board continue to serve as members of the city school board for the balance of the terms for which they were elected.

Respectfully,

C. WILLIAM O'NEILL
Attorney General