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TRANSPORTATION — MENTALLY DEFECTIVE PUPILS — REGULATED IN SAME MANNER AS NORMAL PUPILS.

SYLLABUS:

The transportation to school of mentally defective children is governed by the same laws as is the transportation of normal children.

COLUMBUS, OHIO, December 30, 1932.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your communication requesting my opinion with reference to certain matters submitted to you by one of your examiners, in a letter which reads as follows:

“I am forwarding for your consideration copy of a letter received by me from the Director of Child Accounting Division of the Cincinnati Public Schools. Briefly, the history is as follows: Mentally defective children in the Cincinnati School District are assigned to Seguin and schools specially for this class of children and to certain designated classes in regular schools wherein normal children are taught.

The question has arisen at the start of this school year as to whether or not children assigned by the Superintendent to classes of these special schools shall be treated as normal children in regard to transportation or come in Section 7755-2 and be treated as in this section.”

The letter from the Director of Child Accounting Division of the Cincinnati schools, referred to by your examiner in his letter, reads as follows:

“Pursuant to our conversation relative to the question of transportation for mentally defective children to the special classes to which they have been assigned, I would appreciate very much if you would take up this matter with your office at Columbus, and the Attorney General for an opinion in this connection.

You will remember my reference to Section 7755-2 which deals with the question of transportation. I think that we agree, since there is no reference to mentally defective children, that we question seriously whether this section authorizes transportation to that group. In my opinion, neither does Section 7763-5 legally justify distribution of car tickets for mentally defective children.

Consequently, according to my interpretation of transportation of mentally defective children to elementary schools, I have held this to the two-mile limit the same as regular cases.”

。 Section 7755-2, General Code, which is referred to in the above correspondence, makes provision for the transportation of blind, deaf and crippled children, who attend special classes for such children in a district other than the district of their residence. For that reason, if for no other, it affords no answer to the question here presented as I understand the children in question attend school in the same school district in which they are living.

Moreover, the children referred to in the above correspondence are not of the class of children mentioned in Section 7755-2, General Code. Said Section 7755-2, General Code, is a supplemental section to Section 7755, General Code. This is indicated not only by its number which was given it by the legislature, but by the fact that the legislature, in the act where the section was first enacted (109 O. L., 257) spoke of it as a supplemental section.

Without any doubt whatever, the words "blind, deaf and crippled" as used in Section 7755-2, General Code, refer to the same class of children as do the same words in Section 7755, General Code, which section was enacted in the first place, at a somewhat earlier period than was the enactment of Section 7755-2, General Code, and which authorizes a local board of education, with the permission of the Director of Education, to establish and maintain schools for blind, deaf and crippled children. A definition of these terms as used in this statute, is found in Section 7760, General Code, which was enacted contemporaneously with Section 7755, General Code. Said Section 7760, General Code reads in part, as follows:

"Any person of sound mind who, by reason of defective hearing or vision or by reason of being so crippled as to be physically unable to properly care for himself without assistance, and cannot properly be educated in the public schools as other children, shall be considered deaf, blind or crippled within the meaning of sections 7755 and 7757, General Code. * * "

It is apparent that nothing contained in Section 7755-2, General Code, could be taken as authority for providing transportation for mentally defective children; neither do the terms of Section 7763-5, General Code, authorize such transportation or provide anything about it one way or the other. This section relates to the method of determining what is a valid excuse for the non-attendance at school of blind, deaf or crippled children and children of defective mentality.

I know of no provision of law which deals specifically with the transportation of mentally defective children. My conclusion is that they are in the same class as normal children, so far as the law providing for transportation of school pupils is concerned.

It may be noted in this connection that a board of education may, in its discretion, transport elementary school pupils as well as high school pupils, regardless of the distance they live from the school. See Opinions of the Attorney General for 1930, page 262.

I am therefore of the opinion that the transportation to school of mentally defective children is governed by the same laws as is the transportation of normal children.

Respectfully,
GILBERT BETTMAN,
Attorney General.