

Note from the Attorney General's Office:

1968 Op. Att'y Gen. No. 68-105 was modified by
1978 Op. Att'y Gen. No. 78-064.

OPINION NO. 68-105**Syllabus:**

The county board of education is not a "county office" within the meaning of Section 307.84, Revised Code, and is, therefore, free to make contracts for data processing service notwithstanding the establishment of a county data processing board which governs "county office" data processing contracts.

To: John T. Corrigan, Cuyahoga County Pros. Atty., Cleveland, Ohio
By: William B. Saxbe, Attorney General, June 25, 1968

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

"May a county board of education contract for the use of any automatic data processing equipment without the prior approval of the County Data Processing Board?"

In your request you mention that the Board of County Commissioners of Cuyahoga County did create the Cuyahoga County Data Processing Board pursuant to Sections 307.84 to 307.846, Revised Code, and that since the establishment of the Board, the County Board of Education has contracted for data processing service without the approval of the newly created board.

The applicable code section is 307.84, Revised Code, and it reads as follows:

"The board of county commissioners of any county may, by resolution, establish a county automatic data processing board. The board shall consist of the county treasurer or his representative, a member or representative of the board of county commissioners chosen by the board, and the county auditor or his representative who shall serve as secretary.

"After the initial meeting of the county automatic data processing board, no county office shall purchase, lease, operate, or contract for the use of any automatic data processing equipment without prior approval of the board.

"As used in sections 307.84 to 307.846 /307.84.6/, inclusive, of the Revised Code, 'county office' means any officer, department, board, commission, agency, court or other office of the county."

The obvious question is whether a county board of education is a "county office" within the meaning of Section 307.84, supra. Traditionally, county boards of education have been considered a separate entity apart from county government. When speaking about county school boards, the Supreme Court of Ohio in Cline v. Martin, 94 Ohio St. 420, stated in part at page 426:

"Such boards are agencies of the state for the organization, administration and control of the public school system of the state, separate and apart from the usual political and governmental functions of other subdivisions of the state. The fact that certain officers of other subdivisions may be delegated some duties or authority in relation thereto does not change the status or destroy the separate identity of the school district."

Also in Opinion No. 1145, Opinions of the Attorney General for 1957, page 522, it is stated at page 524:

"* * * It is recognized that a school district is a governmental unit separate and distinct from a governmental unit such as a county, township, city, or village, * * *."

Therefore, since a county board of education is only responsible to the state board of education and the county commissioners have no control over the activities of the county board of education, it is not a "county office" within the meaning of Section 307.84, supra.

In conclusion, it is my opinion and you are hereby advised that the county board of education is not a "county office" within the meaning of Section 307.84, Revised Code, and is, therefore, free to make contracts for data processing service notwithstanding the establishment of a county data processing board which governs "county office" data processing contracts.