

6441.

SCHOOL DISTRICT—UNION OF ADJOINING SCHOOL DISTRICTS FOR HIGH SCHOOL PURPOSES.

SYLLABUS:

In pursuance of Sections 7669 et seq., of the General Code of Ohio, two or more adjoining school districts may unite for high school purposes whether or not one or more of such districts be outside the jurisdiction of the county board of education of the county in which the proposed union of districts is to be made.

COLUMBUS, OHIO, November 28, 1936.

HON. HAROLD U. DANIELS, *Prosecuting Attorney, Painesville, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion, which reads as follows:

“There is a union high school now existing between the Willoughby Village School District and the Willoughby Township School District, Lake County, Ohio, which is operated pursuant to General Code Section 7669 and following. Willoughby Village School District is contemplating becoming a school district exempt from county supervision pursuant to General Code Section 4688.

The question which is bothering the two school districts in question is whether or not two districts, one under county supervision and one exempted from county supervision, may legally unite to form a union high school. The difficulty that suggests itself to our office is the fact that General Code Section 7671-2, provides that the county board of education shall have jurisdiction to determine disputes between two boards upon a dissolution.

It occurs to us that the question of legality will be affected by the opinion of your office as to just what effect these provisions for dissolution have upon the question.

So that there may be no question about the matter we are asking you for a formal opinion.

To repeat the question—Is a union of districts for high school purposes legal and possible when one district involved, is under county supervision and the other is exempt? In such an event would a dispute upon their dissolution be referred to the county school board?”

Sections 7669 and 7671-2, General Code, referred to in your inquiry, read as follows:

“Sec. 7669. The boards of education of two or more adjoining school districts, by a majority vote of the full membership of each board, may unite such districts for high school purposes. Each board also may submit the question of levying a tax on the property in their respective districts for the purpose of purchasing a site and erecting a building, and issue bonds, as is provided by law in case of erecting or repairing school houses; but such question of tax levy must carry in each district before it shall become operative in either. If such boards have sufficient money in the treasury to purchase a site and erect such building, or if there is a suitable building in either district owned by the board of education that can be used for a high school building it will not be necessary to submit the proposition to vote, and the boards may appropriate money from their funds for this purpose.”

“Sec. 7671-2. Any union of districts for high school purposes as provided in Sections 7669, 7670, 7671 and 7671-1, General Code, may be dissolved upon passage of resolutions by one or more of the boards of education of the school districts participating in such union demanding such dissolution, or upon failure of any one or more of the said boards of education to pay their proportion of the maintenance of the joint high school, provided that during the continuance of such union the obligations, financial and otherwise, involved in the acts of the joint high school committee shall be binding upon each and all of the participating districts. In the event of failure of the boards of education of the participating districts to agree upon the terms of dissolution of the union of districts referred to in the first part of this section, or when such boards of education fail, within sixty days from the time when dissolution has been resolved upon to effect a settlement of property interests and indebtedness involved in the establishment and maintenance of the joint high school in the case, the county board of education of the county in which such joint high school is located shall make such adjustments as may in its judgment be deemed equitable, and the terms of settlement fixed by the said county board of education shall be binding upon the several school districts concerned.”

It will be observed from the terms of Section 7669, *supra*, which provides for a union of school districts for high school purposes, that

no limitation is placed upon such a union so far as the class of school districts is concerned. The statute expressly provides that the boards of education of two or more adjoining school districts may by following the procedure outlined, effect a union of school districts for high school purposes. The language of the statute is clear, and needs no interpretation.

The mere fact that in Section 7671-2, General Code, it is provided that upon dissolution, the county board of education of the county in which the joint school districts exist, shall make such adjustments as may in its judgment be deemed equitable, and act as an umpire in the settlement between the districts involved in the event the boards of education in those districts cannot agree, can make no difference, in my opinion, as to the right of districts to effect a joinder for high school purposes, whether they be districts under the control of the county board of education or not. It would no doubt be within the power of the legislature to provide that in case of dissolution of a joint high school and failure of the districts involved to agree upon the terms of dissolution, the county commissioners or the county auditor, or any other person or board or official might act as umpire or referee with respect to settling the matter.

I am therefore of the opinion in specific answer to your question that, under the terms of Sections 7669 et seq., of the General Code of Ohio, a union of school districts for high school purposes may be effected, regardless of the class of districts involved.

Respectfully,

JOHN W. BRICKER,
Attorney General.

6442.

RECORDER—APPOINTEE WHERE COUNTY RECORDER DIES
AFTER ELECTION BUT BEFORE BEGINNING OF TERM.

SYLLABUS:

Where an incumbent of the office of county recorder dies shortly after the general November election of 1936, at which he was re-elected county recorder, under the provisions of section 2750, General Code, as amended by House Bill 603 of the first special session of the 91st General Assembly, for a term of four years, beginning on the first Monday of January, 1937, and the county commissioners, acting under authority of section 2755, General Code, appoint a suitable person to fill the vacancy in such office, such person holds the office until a successor, who shall be elected at the general November election of 1938, has qualified after such