

OPINION NO. 80-101**Syllabus:**

Pursuant to R.C. 2151.357, when a child is placed in a detention home established under R.C. 2151.34, the child's school district, as determined by the court, is responsible for paying the cost of the education of the child. (1963 Op. Att'y Gen. No. 553, p. 552, and No. 261, p. 326, overruled to the extent that they are inconsistent with this conclusion.)

To: Michael DeWine, Greene County Pros. Atty., Xenia, Ohio
By: William J. Brown, Attorney General, December 31, 1980

I have before me your request for my opinion on a question concerning R.C. 2151.34 and 2151.357. In order to facilitate discussion, I have rephrased your question to read as follows: Who should bear the cost of the education of children in an educational program established in the Greene County Detention Facility, established and operated by Greene County Juvenile Court? You wish to know whether the county or the school district determined by the court is responsible for such cost. You note, in your request, an apparent conflict between R.C. 2151.34, which has been interpreted by a prior Attorney General to require that the county must assume the cost, and R.C. 2151.357, which states that the child's school district as determined by the court must pay.

R.C. 2151.34 concerns the treatment of children in county detention homes awaiting final disposition by the court. It provides, in pertinent part, as follows:

The judge, or the directing board of a district detention home, may appoint a superintendent, a matron, and other necessary employees for such home and fix their salaries. During the school year, when possible, a comparable educational program with competent and trained staff shall be provided for those children of school age. A sufficient number of trained recreational personnel shall be included among the staff to assure wholesome and profitable leisure-time activities. Medical and mental health services shall be made available to insure the courts all possible treatment facilities shall be given to those children placed under their care. In the case of a county detention home, such salaries shall be paid in the same manner as is provided by section 2151.13 of the Revised Code for other employees of the court, and the necessary expenses incurred in maintaining such detention home shall be paid by the county. (Emphasis added.)

Prior to the enactment of R.C. 2151.357, one of my predecessors concluded that R.C. 2151.34 required the county to bear the cost of educating children placed in detention homes established pursuant to R.C. 2151.34. 1963 Op. Att'y Gen. No. 261, p. 326, 327; 1963 Op. Att'y Gen. No. 553, p. 552, 554. In 1963 Op. Att'y Gen. No. 261, at 328, my predecessor interpreted the language of R.C. 2151.34, "necessary expenses incurred in maintaining such detention home," as including the cost of the education of children detained in the detention home. Such interpretation, however, was adopted prior to the enactment of R.C. 2151.357 by the Ohio General Assembly in 1969.

R.C. 2151.357 specifically designates who is to be responsible for the cost of educational instruction received by children while detained in detention centers such as that operated by the Greene County Juvenile Court. R.C. 2151.357 reads, in pertinent part, as follows:

The court shall at the time of making any order which removes a child from his own home determine which school district shall bear the cost of educating such child. Such determination shall be made a part of the order which provides for the child's placement or commitment.

Whenever a child is placed in a detention home established under section 2151.34 of the Revised Code, or a public school within this state, not including a school operated by the state, his school district as determined by the court shall pay the cost of educating said child based on the per capita cost of the educational facility within such detention home or public school. (Emphasis added.)

A review of the pertinent language of R.C. 2151.34 and 2151.357 demonstrates the lack of conflict between the two sections. R.C. 2151.34 provides that, "a comparable educational program with competent and trained staff shall be provided for those children of school age," who are detained. That section makes no mention of who is to pay the cost of the children's education. However, R.C. 2151.357 specifically designates who is to be responsible for payment of the cost of educating each child who is detained. The language in R.C. 2151.357, "[w]henver a child is placed in a detention home established under section 2151.34 of the Revised Code. . .his school district as determined by the court shall pay the cost of educating said child," clearly provides that the court is responsible for deciding which school district shall pay the cost of the detained child's education. In a situation involving statutory construction, whenever a statute, as does R.C. 2151.357, conveys a meaning which is clear, unequivocal and definite, the statute must be applied accordingly. Gulf Oil Corporation v. Kosydar, 44 Ohio St. 2d 208, 339 N.E.2d 820 (1975); Sears v. Weimer, 143 Ohio St. 321, 55 N.E.2d 413 (1944) (an unambiguous statute is to be applied, not interpreted.

¹ Juvenile Rule 34(C) provides in part, as follows: "If the child is not returned to his own home, the court shall determine which school district shall bear the cost of his education."

I conclude that R.C. 2151.357 is clear and unambiguous in its requirement that the child's school district, as determined by the court, shall bear the cost of education of a child placed in a county detention home pursuant to R.C. 2151.34, and I overrule 1963 Op. No. 553 and No. 261 to the extent that they are inconsistent with this conclusion.

Therefore, in specific answer to your question, it is my opinion, and you are advised, that pursuant to R.C. 2151.357, when a child is placed in a detention home established under R.C. 2151.34, the child's school district, as determined by the court, is responsible for paying the cost of the education of the child. (1963 Op. Att'y Gen. No. 553, p. 552, and No.261, p. 326, overruled to the extent that they are inconsistent with this conclusion.)