

amenable to franchise taxes under the provisions of sections 5495, et seq., General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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TUITION—BOARD OF EDUCATION REQUIRED TO PAY TUITION OF PUPILS ATTENDING SCHOOL IN ANOTHER DISTRICT IN SAME TOWNSHIP.

*SYLLABUS:*

1. *School districts are separate and independent subdivisions of the state, established for school purposes.*

2. *The fact that two school districts are located in the same civil township does not exempt the board of education of either district from the payment of tuition to the board of education of the other district in a proper case as provided for by former Section 7747, General Code, or Sections 7748 or 7595-1d, General Code.*

COLUMBUS, OHIO, April 24, 1936.

HON. CLIFTON L. CARYL, *Prosecuting Attorney, Marysville, Ohio.*

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

"In Liberty Township, Union County, there is a special school district known as Peoria Special, at which place a grade school is maintained. During the past number of years the high school students have all attended a high school located at Raymond, Ohio, in the same township. During the past years the school at Peoria has paid tuition for students who attended school at Raymond, and in the past year the Peoria Special School District has denied and refused to pay tuition for their pupils who attend the Raymond high school. There is no written contract or verbal contract with respect to payment of tuition for pupils who attend high school at Raymond.

We would like your interpretation as to whether or not the Board of Education of Peoria Special School District would be obligated to pay tuition for pupils attending the Raymond school which is in the same township."

Prior to 1914, school districts were classified by force of Section 4679, General Code, as "city school districts, village school districts, township school districts and special school districts."

Section 4679, General Code, was amended in 1914, to read as follows (104 O. L., 133) :

"The school districts of the state shall be styled, respectively, city school districts, village school districts, rural school districts and county school districts."

At the same time, and as a part of the same act of the Legislature, Section 4735, General Code, was enacted, to read as follows (104 O. L., 138) :

"The present existing township and special school districts shall constitute rural school districts until changed by the county board of education, and all officers and members of boards of education of such existing districts shall continue to hold and exercise their respective offices and powers until their terms expire and until their successors are elected and qualified."

It will be observed that upon the enactment of the above statutes, township districts as such, and special school districts were abolished and were thereafter to be known as rural school districts. No change has been made in the law with respect to such districts since that time. What you refer to as "Peoria Special" is now known as "Liberty-Peoria Rural School District" and what was formerly "Liberty Township School District" is now properly called "Liberty Township Rural School District" or "Liberty Rural School District." Although both these districts are in the civil township of Liberty, they are separate school districts and separate and distinct political subdivisions of the state, each district being under the jurisdiction of its own board of education, and this condition has prevailed for a number of years.

Until June 12, 1935, the date of the enactment of what is commonly known as the School Foundation Law (House Bill No. 466, of the 91st General Assembly) Section 7747, General Code, was in force. This statute provided in part :

"The tuition of pupils who are eligible for admission to high school and who reside in districts in which no high school is maintained, shall be paid by the board of education of the school district in which they have legal school residence, such tuition to be computed by the school month. \* \* \*"

Section 7748, General Code, which has been in force for a number of years, provides in part:

“A board of education providing a third grade high school shall be required to pay the tuition of graduates from such school, and of other children who have completed successfully two years of work in a recognized high school, residing in the district at a first grade high school for two years, or at a second grade high school for one year and at a first grade high school for one additional year. \* \* \*”

Section 7747, General Code, was repealed on June 12, 1935, and Section 7595-1d, General Code, which is now controlling with respect to the payment of tuition for pupils who attend school outside the district of their residence was enacted. This statute reads in part, as follows:

“Pursuant to law, a pupil may attend school outside his district of legal residence, and for such pupil, his board of education shall pay tuition not more nor less than that which shall be computed as follows: \* \* \*”

Liberty-Peoria Rural School District does not now, and has not maintained a high school within its boundaries and its high school pupils were necessarily required to attend a high school in another district Raymond High School, to which you refer, and which school was attended by the high school pupils residing in Liberty-Peoria Rural District, is located in Liberty Township Rural District, a separate district from Liberty-Peoria District, and under the plain terms of Section 7747, General Code, as well as those of Section 7595-1d, General Code, the Board of Education of the Liberty-Peoria District was required to pay the tuition of those students and is now required to do so. The fact that the two districts are in the same civil township has nothing whatever to do with the matter, as the two districts are separate and distinct subdivisions, for school purposes.

I am therefore of the opinion, in specific answer to your question, that the Board of Education of the Liberty-Peoria Rural School District is obligated to pay the tuition of any resident high school pupils who attended or are now attending the Raymond High School.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*