814.

RECREATIONAL DIRECTOR—BOARD OF EDUCATION AUTHORIZED TO EMPLOY FOR POLITICAL SUBDIVISION WITH WHICH IT IS COOPERATING IN RECREATIONAL FACILITIES—SUBDIVISION NOT REQUIRED TO PAY THEREFOR.

SYLLABUS:

1. *When a playground or playground facilities have been established by a board of education or when recreational facilities are established by a city, village or county and a board of education desires to co-operate with such city, village or county in the maintenance and operation of recreational activities, a recreation or playground director may be employed by the board of education and paid from funds under its control, for the purpose of supervising such recreational activities during the summer vacation months as well as during other portions of the year.*

2. *It is not necessary that the political subdivision with which the school district is co-operating in the furtherance of a recreational program, pay any portion of the expense of securing a recreational director during the summer vacation months.*

COLUMBUS, OHIO, May 11 1933.

HON. N. C. ROSENTRETER, *Prosecuting Attorney, Port Clinton, Ohio.*

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

> "Where a playground and playground facilities have already been established, does the board of education have implied authority to hire, during the summer vacation months, a playground director, with such expenses payable from the treasury of the school district alone?
>
> Referring to General Code Section 4065-7, I note that all expenses incurred in the operation of playgrounds established as provided in Section 4065-5, shall be payable from the treasury of such city, village, county, or school district, but such section does not provide that such expenses can be met or such playgrounds operated during the summer months, or when school is not regularly in session.
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> Also I would like to know if it is necessary that a political subdivision within which the school is operated must contribute a portion to the expenses of such summer operation."

By force of Section 4065-1 et seq. of the General Code of Ohio, power is vested in the council or other legislative authority of a city or village and the county commissioners of a county to establish and maintain playgrounds, play fields, gymnasiums, public baths, swimming pools and indoor recreation centers and to provide for the supervision thereof by the employment of such play leaders, recreation directors, supervisors, superintendents and other officers and employes as are deemed necessary.

If desired, a recreation board of five members may be appointed in cities and villages, which board shall possess all the powers and be subject to all the

responsibilities with respect to playgrounds and recreational activities that are extended to and imposed upon the city or village by virtue of the statutes mentioned.

Section 4065-5, General Code, provides that any two or more cities or villages, or any city or village, or any city or village and county may jointly acquire property for and maintain and operate playgrounds, play fields, gymnasiums, public baths, swimming pools, or indoor recreation centers. Said Section 4065-5, General Code, further provides:

> "Any school diserict shall have power to join with any city, village or county, in equipping, operating and maintaining playgrounds, playfields, gymnasiums, public baths, swimming pools, and indoor recreation centers, and may appropriate money therefor."

At the time of the enactment of Sections 4065-1 to 4065-7, inclusive, of the General Code, in 1921, boards of education possessed very broad powers with respect to promoting and maintaining recreational activities within the school district as well as with respect to cooperating with other public officials in the equipping and maintaining of places for recreation, by virtue of Sections 7622-4, 7622-5, 7622-6 and 7622-7, General Code, which sections had been enacted some years prior to 1921, and were then, and still are in force. These sections read as follows:

> Sec. 7622-4. "Upon the nomination of the superintendent of any school district the board of education of such district may employ a person or persons to supervise, organize, direct and conduct social and recreational work in such school district. The board of education may employ competent persons to deliver lectures, or give instruction on any educational subject, and provide for the further education of adult persons in the community."
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> Sec. 7622-5. "In cities employing a person to direct and supervise social and recreational work such person may use the school buildings, grounds, and other public buildings or grounds in such city for the purposes indicated in section 7622-3 of the General Code subject to the limitations provided in sections 7622-1 to 7622-3 of the General Code."
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> Sec. 7622-6. "Boards of education may co-operate with commissioners, boards or other public officials having the custody and management of public parks, libraries, museums and public buildings and grounds of whatever kind in providing for education, social, civic and recreational activities, in buildings and upon grounds in the custody and under the management of such commissioners, boards or other public officials."
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> Sec. 7622-7. "The board of education of any school district or a municipality may levy annually upon the taxable property of such school district or municipality within the limitations of section 5649-2 of the General Code, not to exceed two-tenths of a mill for a social center fund to be used for social and recreational purposes."

Upon consideration of the powers extended to boards of education by virtue of the statutes noted above, it will be seen that those powers are very broad, both as to the conduct of recreational activities independently, and in cooperation with

other officials. Boards of education do not have the power to join with the local authorities of a city or village or county in acquiring playgrounds and similar property for recreational purposes, but the power to cooperate in the equipping, maintaining and operating of these properties is practically unlimited, nor is this power limited as to time so as to prevent its exercise during the time school is not in session.

The extent of this power has been noted in several previous opinions of this office. In Opinions of the Attorney General for 1925, page 342, it is held:

> "A school district joining with a city in equipping and maintaining play grounds as provided in section 4065-5 of the General Code may permit, under the limitations provided in sections 7622-1 and 7622-3, the use of the school grounds adjacent to the several school buildings of such district for the carrying on of a recreational program."
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> In Opinions of the Attorney General for 1928, page 2640, it is held:
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> "Section 4065-5, General Code, and related sections, authorize any city, village or county and any school district jointly to equip, operate and maintain playgrounds, playfields, gymnasiums, etc., upon lands set apart for said purpose by the municipality which said lands are not otherwise dedicated to public use. A stadium for athletic purposes is included within the purposes mentioned in said section."

Again, in 1929, Section 4065-5, General Code, and kindred sections were construed in an opinion of the Attorney General which may be found in the Opinions for that year at page 1975. It was there held:

> "The manner by which a school district may cooperate with other public officials in the maintenance of recreational activities as authorized by Sections 4065-5 and 7622-6, General Code, is within the discretion of the authorities so cooperating, and may lawfully be the subject of agreement between them.

Both Sections 7622-4 and 4065-5, General Code, grant authority to a board of education to employ a recreational director and pay him from funds under its control, whether the recreation grounds or facilities are owned by the board or whether it had joined with a city, village or county in the maintenance and operation of recreation grounds and apparatus. The terms of Section 4065-7, General Code, are also broad enough, in my opinion, to authorize such action.

It will be observed upon a reading of these sections that the powers granted to a board of education therein are not so limited as to time that they may be exercised during the time school is in session only.

It apparently is contemplated that recreational work in a school district is as necessary during vacation as when school is in session. Neither is it provided that when a board of education joins with other public officials in the promotion of a recreational program each contributor to the expense must contribute to each item of the expense. The school district may pay a supervisor or recreational director, or lifeguards at a swimming pool and another subdivision may furnish the water or the place or other recreational apparatus, or vice versa.

I am therefore of the opinion, in specific answer to your questions:

1. When a playground or playground facilities have been established by a board of education, or when such facilities are established by a city, village or

county and a board of education desires to cooperate in the maintenance and operation of recreational activities, a recreation or playground director may be employed by a board of education for the purpose, and paid from funds under its control, for the purpose of supervising recreational activities within the school district during the summer vacation months as well as during other portions of the year.

2. It is not necessary that the political subdivision with which the school district is cooperating in the furtherance of a recreational program, pay any portion of the expense of securing a recreational director during the summer vacation months.

Respectfully,
JOHN W. BRICKER,
Attorney General.

815.

POOR RELIEF—LEGAL SETTLEMENT—PERSON MUST RESIDE IN AND SUPPORT SELF FOR THREE CONSECUTIVE MONTHS IN TOWNSHIP, WITHOUT RELIEF TO GAIN LEGAL SETTLEMENT AND BE ENTITLED TO POOR RELIEF THEREIN.

SYLLABUS:

A person having a legal residence in one township and moving to another township in the same county, must continuously reside and support himself for three consecutive months, without relief under the provisions of law for the relief of the poor or from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief, in the new township, before he gains a legal settlement for the relief of the poor in the new township.

COLUMBUS, OHIO, May 11, 1933.

HON. FRAZIER REAMS, *Prosecuting Attorney, Toledo, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date requesting an opinion upon the following facts:

> "J. R. G. had a residence in Providence Twp. October 1, 1932, he moved to Swanton Twp. and occupied a farm with the intention of remaining there. Within a few days he applied to the Swanton trustees for work or relief. He was refused on the ground he was still a resident of Providence Twp. He thereupon applied to the Providence trustees, and in the period from October 1, 1932, to January 1, 1933, he was put to work by the Providence trustees on a county ditch and was paid by the county surveyor with county checks drawn on county funds. During this period he also received flour distributed by the Red Cross through the Providence trustees. During this period he was not a charge in any way upon Swanton Twp. Subsequent to January 1, 1933, he applied for and was given relief work by Swanton Twp., the Providence trustees having refused him any further relief. Each board now claims he is a resident of the other township."