

3569.

SCHOOL DISTRICT—DIRECTOR OF EDUCATION MAY VARY APPROPRIATION FOR BLIND, DEAF AND CRIPPLED PUPILS—LIMITATION.

SYLLABUS:

In proper cases, it is within the power of the Director of Education to vary the amount contributed per pupil, to the various school districts from the state appropriation for the maintenance of special classes for blind, deaf and crippled persons, with the limitation only that the amount so contributed, shall be within the limitation fixed by statute.

COLUMBUS, OHIO, September 14, 1931.

HON. B. O. SKINNER, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion in answer to the following question:

“Is it within the power of the director of education to differentiate the amount paid per pupil to the various school districts which participate in the State subsidy for physically handicapped children?”

Your question relates to the distribution of the contribution to be made from the state appropriation made for the purpose, to the several school districts in the state to aid those districts in the maintenance of special classes for the blind, deaf and crippled.

Authority for establishing and maintaining such classes is found in Sections 7755 et seq. of the General Code, of Ohio. Section 7755, General Code, reads as follows:

“The director of education may grant permission to any local board of education to establish and maintain a class or classes for the instruction of deaf or blind persons over the age of three, or of crippled persons over the age of five.”

Succeeding sections of the Code set forth somewhat in detail certain definite powers and duties of boards of education in carrying out the purposes of the law, and vest the Director of Education with broad powers by way of establishing standards for said classes, fixing the basis of what constitute special appliances for said classes and the current operating expenses incident to the maintenance of the classes, as those terms are used in the statutes pertaining to the maintenance of special classes for the blind, deaf and crippled.

Section 7757, General Code, provides in substance that at the close of each school year the board of education of each school district wherein classes for the education of the blind, deaf or crippled had been maintained, by authority of said Sections 7755 et seq. of the General Code, of Ohio, should certify to the Director of Education certain data with reference to the maintenance of the said classes including the total costs thereof, together with statements showing the per capita cost of the education of normal children in the district in the same school grades during the same period of time. It provides further:

"The director of education shall be the final authority in deciding the questions relative to what constitutes special appliances and current operating cost under the terms of this section."

Section 7758, General Code, provides in part, as follows:

"The director of education, upon receipt and approval of the report and financial statement provided in Section 7757, shall present a voucher to the auditor of state in favor of the board of education in an amount equal to the cost of maintaining such special classes and instruction, minus the cost of the instruction of the same number of children of normal needs in the same school grades of the district, but in an amount not to exceed three hundred and seventy-five dollars for nine months in the case of the blind, and three hundred dollars in the case of the deaf or crippled, and proportionate amounts for those instructed more or less than nine months.

* * * *

Upon presentation of such voucher the auditor of state if satisfied as to the correctness shall draw a warrant on the treasurer of state for the amount."

The law does not state that the per capita allowance for the education of the blind, deaf and crippled in special classes maintained by authority of said statutes, shall be the same in all districts. On the other hand, it apparently contemplates that it will not be the same as it vests in the Director of Education full and final authority to say what are current operating expenses and necessary special appliances. It is perfectly obvious, in the light of experience, that some classes may need more expensive special appliances than others, and some classes may need no special appliances whatever, while others may need appliances which will involve considerable cost. Clearly, the cost of maintaining these classes in some districts, would be greater in proportion to the number of pupils than in others, and the law directs the payment of all these excess costs over the cost of educating normal children of the same grade, within certain limitations fixed by the statute.

I am therefore of the opinion, in specific answer to your question, that in proper cases, it is within the power of the Director of Education to vary the amount contributed per pupil to the various school districts from the state appropriation for the maintenance of special classes for blind, deaf and crippled persons, with the limitation only that the amount so contributed shall be within the limitation fixed by statute.

Respectfully,
GILBERT BETTMAN,
Attorney General.