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1. EDUCATION, COUNTY BOARD OF—MEMBER—CANNOT LAWFULLY BE COMPENSATED FOR ATTENDANCE, ANNUAL MEETING, LOCAL DISTRICT BOARDS CALLED BY COUNTY BOARD—SECTIONS 4832-11, 4844-1 G. C.
2. PAYMENT FROM “SERVICE FUND”—EXPENSES ACTUALLY INCURRED BY MEMBERS OF SCHOOL BOARDS IN PERFORMANCE OF DUTIES — NO APPLICATION TO MEMBERS OF COUNTY BOARD OF EDUCATION—SECTION 4845-8 G. C.

## SYLLABUS:

1. Members of the county board of education cannot lawfully be compensated under Section 4832-11, General Code, for attending the annual meeting of members of local district boards called by the county board under Section 4844-1, General Code.

2. Section 4845-8, General Code, relating to the payment from the “service fund” of expenses actually incurred by members of school boards in the performance of their duties, has no application to members of the county board of education.

Columbus, Ohio, January 31, 1945

Bureau of Inspection and Supervision of Public Offices  
Columbus, Ohio

Gentlemen:

This will acknowledge receipt of your letter of recent date relating to the payment of compensation and expenses of members of the county board of education for their attendance at the annual meeting of the members of the local district boards called by the county board. Your letter reads as follows:

“Section 4844-1, General Code, requires the County Board of Education to call a meeting of the members of the boards of education of all local school districts within the county at least once each year for the purpose of discussing matters relating to the schools. May we request your opinion upon the following:

May members of the county board of education be compensated as provided in Section 4832-11, General Code, for their attendance at such meetings; or, if they may not be so compensated, would they be entitled to their expenses for attending such meetings, to be paid from the 'Service Fund' created under the provisions of Section 4845-8, General Code."

The pertinent portion of Section 4844-1, General Code, relating to the annual meeting of local district board members, reads as follows:

"The county board of education is authorized to pay the expenses of all educational meetings called by such board and shall call a meeting of the members of the board of education of all local school districts within the county at least once each year for the purpose of discussing the matters relating to their schools, for which each member shall be paid the same compensation as authorized by Section 4832-11 of the General Code."

Section 4832-11, General Code, which provides for the compensation and expenses of county and local district board members, reads as follows:

"Each member of the county board of education shall be paid three dollars a day and mileage at the rate of ten cents a mile one way to cover the actual and necessary expenses incurred during his attendance upon any meeting of the board not exceeding twelve meetings in any one year. Such expenses and the expenses of the county superintendent itemized and verified shall be paid from the county board of education fund upon vouchers signed by the president of the board.

The board of education of any school district other than a county school district may provide by resolution for the compensation of its members, provided, first, that such compensation shall be paid out of current operating funds derived from a local tax which is in excess of the tax levy required for participation in additional aid from the state public school fund; and second that such compensation shall not exceed two dollars (\$2.00) per member for regular meetings attended not exceeding ten meetings in any one year."

It will be observed that the provision of Section 4844-1, General Code, relating to the payment of compensation to "each member" under Section 4832-11, General Code, has reference only to the compensation of the members of the local district boards who attend the annual meeting of local district board members, and that their compensation is provided for in the second paragraph of the above quoted Section 4832-11. While

the county board is required to call the meeting, no provision is made in Section 4844-1 for paying compensation to any member of that board who attends the meeting.

The first paragraph of Section 4832-11, General Code, above quoted, relates and applies only to the compensation and expenses of county board members who attend meetings of their own board. Your letter therefore raises the question as to whether or not the annual meeting of local district board members called by the county board under Section 4844-1, General Code, may be classed as a "meeting of the board" within the meaning of the first paragraph of Section 4832-11, General Code.

In my opinion the annual meeting of local district board members called under Section 4844-1, General Code, is not a meeting of the county board, but is instead a meeting of members of the local boards, and that the compensation referred to in that section is the compensation of local board members provided for in the second paragraph of Section 4832-11, General Code.

Section 4844-1, General Code, is in part a revision of former Section 4747-1, General Code, and it was held in a former opinion of this office reported in Opinions of the Attorney General for 1925, No. 2333, page 181, that the statute did not provide for an annual meeting of county board members, and that it did not even require the presence of the county board members at the meeting called and held under its provisions. In my opinion the same also may be said of present Section 4844-1, General Code. That being the case, it follows that the compensation provision of the first paragraph of Section 4832-11, General Code, does not refer to or include the annual meeting of local district board members, and that county board members who voluntarily attend such meeting are not entitled to receive compensation for their attendance.

You also inquire if expenses incurred by members of the county board of education who attend the annual meeting of local district board members, may be paid from the "service fund" created under the provisions of Section 4845-8, General Code, which reads as follows:

"On the third Monday of every January or on the Monday preceding the close of school each year, the clerk of the board of education of any school district shall certify to the board of education of which he is clerk, the number of pupils enrolled in the

public school of that district, whereupon the board of such school district may by resolution set aside from the general fund a sum not to exceed five cents for each child so enrolled, or \$300.00, whichever is greater, such sum of money to be known as the 'service fund' to be used only in paying the expenses of such members actually incurred in the performance of their duties, or of their official representatives when sent out of the school district for the purpose of promoting the welfare of the schools under their charge; such payments to be made only on statement of the several members, or their official representatives, furnished at the last meeting held in each month."

It will be observed that the "service fund", under the express terms of this statute, is created from moneys set aside from the "general fund", and it is therefore quite evident that the statute can have no application to county school districts or county boards of education, because county school districts are not classed as subdivisions under Section 5825-1, et seq., General Code, and have no general fund from which a service fund could be created. On the contrary, county school districts now receive their operating funds under the provisions of new Section 4848-10, General Code, from the state public school fund, and when these funds are received by the county board of education it is expressly provided therein that they be credited to a "separate fund, hereby created, to be known as the county board of education fund." Nowhere in the laws of this state is there any authority for a county board of education to use this state public school money for the purpose of establishing either a so-called general fund or service fund. In other words, while Section 4845-8, General Code, may be applied to city, local and exempted village school districts, all of which are subdivisions and have general funds under Section 5625-1, et seq., the statute cannot be adapted and applied to county school districts for reasons above stated.

Even were it to be assumed that Section 4845-5, General Code, could be applied to county boards of education, the use of the "service fund" therein provided for would be limited to the payment of expenses incurred by board members "in the performance of their duties." Therefore, since no duty is imposed upon county board members to attend the meetings of members of local district boards called by the county board under

Section 4844-1, General Code, it would follow that voluntary attendance at such meetings by any county board member could not properly be said to be attendance in the performance of duty.

You are therefore advised that :

(1) Members of the county board of education cannot lawfully be compensated under Section 4832-11, General Code, for attending the annual meeting of members of local district boards called by the county board under Section 4844-1, General Code.

(2) Section 4845-8, General Code, relating to the payment from the "service fund" of expenses actually incurred by members of school boards in the performance of their duties, has no application to members of the county board of education.

Respectfully,

HUGH S. JENKINS  
Attorney General