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A BOARD OF EDUCATION WHICH HAS ENTERED AN AGREEMENT WITH AN ADJOINING SCHOOL DISTRICT OF NEIGHBORING STATE FOR JOINT ESTABLISHMENT AND MAINTENANCE OF A SCHOOL—AND TERMINATION OF SAID AGREEMENT—§3313.42, R.C.

SYLLABUS:

A board of education which has entered an agreement with an adjoining school district of a neighboring state for the joint establishment and maintenance of a school pursuant to Section 3313.42, Revised Code, may terminate such agreement by action of its board of education and upon terminating such agreement shall receive school assets and assume liabilities, including bonded indebtedness, in such proportion as is deemed "just and equitable" in the judgment of the two participating boards of education, which proportion may be the same as was used to divide the costs of establishing and maintaining the joint school.

Prosecuting Attorney, Preble County
Eaton, Ohio

Dear Sir:

I have before me your request for my opinion which request reads as follows:

"College Corner Local Board of Education, Preble County, Ohio, and Union School Corporation, Union County, Indiana,

jointly operate the College Corner Union School. The real property is located in both Ohio and Indiana. The main building is constructed so that the approximate center line of the building is on the Ohio-Indiana state line. The elementary school building is entirely within the State of Indiana. This union operation is provided in Section 3313.42 of the Revised Code of Ohio, and similar legislation in Indiana. Problems have occurred which may require a dissolution of this district.

“An indebtedness consisting of outstanding bonds for the construction of the elementary building is outstanding. College Corner School District (Ohio) is obligated on these bonds.

“I will appreciate your early opinion on the following:

“What is the procedure for dissolution of this school district, including division of school property upon dissolution of the district?”

Section 3313.42, Revised Code, which is pertinent to your inquiry, reads as follows:

“When in the judgment of a board of education of any school district in this state, lying adjacent to a school district of another state, the best interests of the public schools can be promoted by purchasing school grounds, repairing or erecting a schoolhouse, and maintaining them jointly between the two adjacent school districts, the board of education of the school district of this state so situated may enter into an agreement with the school authorities of said adjacent school district for the purpose of purchasing school grounds, repairing or constructing a school building, purchasing school furniture, equipment, appliances, fuel, employing teachers, and maintaining a school. The board of education of this state may levy taxes and perform such other duties in maintaining such joint school as are otherwise provided by law for maintaining the public schools in this state.

“In carrying out this section the school district shall pay such proportion of the cost of purchasing school grounds, repairing or erecting a building, and in maintaining the joint school as is equitable and just in the judgment of the board of education and trustees of the two adjacent school districts.”

As may be seen by a perusal of this statute, no provision is made for the termination of an arrangement made thereunder. It should be noted that this statute did not create a joint school district which must now be dissolved but merely enabled a border-line school district to enter into an agreement with an adjoining school district of another state

to establish and maintain schools for the joint use of the two separate school districts.

It is probable that any such agreement would contain an express provision for eventual separation. But in the absence of such a provision separation is still possible. While the statute is not express as to the means of terminating this arrangement, it may fairly be implied that the agreement providing for joint operation of the schools within the two adjoining districts may be terminated in the same way in which it was entered. As the agreement to operate the schools jointly was a result of action of the board of education, it may be implied that the board of education may vote to terminate the agreement for the joint operation of its schools at any time at which it deems the best interests of the public schools can be thus promoted.

The second paragraph of Section 3313.42, Revised Code, provides that the proportion of the costs of establishing and maintaining the joint school which is to be borne by the Ohio school district shall be such as is "equitable and just" in the judgment of the two boards of education. For this reason, it appears that upon effecting a termination of the joint operation agreement, the Ohio school district should assume this same proportion of the school district liabilities, including bonded indebtedness, and receive this same proportion of the school assets.

It is, therefore, my opinion and you are accordingly advised that a board of education which has entered an agreement with an adjoining school district of a neighboring state for the joint establishment and maintenance of a school pursuant to Section 3313.42, Revised Code, may terminate such agreement by action of its board of education and upon terminating such agreement shall receive school assets and assume school liabilities, including bonded indebtedness, in such proportion as is deemed "just and equitable" in the judgment of the two participating boards of education, which proportion may be the same as was used to divide the costs of establishing and maintaining the joint school.

Respectfully,

MARK McELROY

Attorney General