

pursuant to the directory language of Section 3 of Article VI, Constitution of Ohio. Thus the references in Section 3313.64, supra, to payment of tuition for the schooling of inmates of children's homes or institutions refers to their education in public schools.

Inmates of private homes or institutions, who were school residents of the district wherein the private home or institution is located may attend the public schools of that district free of tuition payments. Those inmates of private homes or institutions who were, previous to their admission to such home or institution "a school resident of another school district of the state" as provided in Section 3313.64, supra, may attend the public schools of the district wherein the home or institution is located and the tuition of such inmate shall be paid by such other school district. Since the language of the statute is "another school district in the state", it is obvious that the legislature, in enacting Section 3313.64, supra, did not intend that tuition be paid to out-of-state private school authorities.

It has been well established as a part of the jurisprudence of Ohio that school boards, being creatures of statute, have only such powers as are clearly and expressly granted to them and such implied powers as are necessary to execute their express powers. Verberg v. Board of Education, 135 Ohio St., 246. Thus the apparent lack of statutory authority in either Section 3313.64, supra, or elsewhere empowering school districts to pay tuition for students now attending school outside the state of Ohio leads to no other conclusion than that it is neither mandatory nor permissible for a school district of the State of Ohio to pay tuition for one of its former students who now attends school outside the state.

Therefore, it is my opinion and you are advised that the school districts of Ohio are not empowered to make tuition payments pursuant to Section 3313.64, Revised Code, to schools or school districts outside the State of Ohio.

OPINION 65-17

Syllabus:

1. A joint vocational school district may be formed to provide vocational education and training for all youth of school age within the joint vocational school district.
2. A joint vocational school district may not be formed solely for the purpose of providing facilities for and operating programs described in Section 3311.215, Revised Code.

To: E. E. Holt, Superintendent of Public Instruction, State Department of Education, Columbus, Ohio

By: William B. Saxbe, Attorney General, February 3, 1965

I have before me your request for my opinion wherein you ask whether a joint vocational school district may be formed solely for the purpose of providing facilities for and operating the programs described in Section 3311.215, Revised Code.

The procedure for creation of a joint vocational school district is set forth in Sections 3311.16 to 3311.18, inclusive, Revised Code. Section 3311.16, Revised Code, provides as follows

"Any local, exempted village, city, or county board of education, or any combination of such districts, referred to in sections 3311.16, 3311.17, and 3311.18 of the Revised Code as the initiating unit, may make or contract for the making of a study pertaining to the need to establish within the county, or within an area comprised of two or more adjoining counties, a joint vocational school district, and for the preparation of a plan for the establishment and operation of a joint vocational school district covering the territory of two or more school districts within such county or counties. Any local, exempted village, or city school district in the county or counties may participate with the initiating unit in the cost of such study and plan. Such plan shall be submitted to the state board of education by the initiating unit."

The actual creation of a joint vocational school district is provided for in Section 3311.18, Revised Code, which reads in part as follows:

"Subject to the consent of the board of education of each school district whose territory is proposed to be included within a joint vocational school district, the initiating unit may create a joint vocational school district within the county or within an area comprised of two or more adjoining counties, composed of the territory of all the school districts whose boards of education have approved the formation of the joint vocational school district. The effective date for the establishment of such district shall be designated by the initiating unit. A school district shall not lose its separate identity or legal existence by reason of becoming a part of a joint vocational school district."

Section 3311.19, Revised Code, reads in part as follows:

"The vocational schools in such joint vocational school district shall be available to all youth of school age within the joint voca-

tional school district subject to the rules and regulations adopted by the joint vocational school district board of education in regard to the standards requisite to admission. A joint vocational school district board of education shall have the same powers, duties, and authority for the management and operation of such joint vocational school district as is granted by law to a board of education of a city school district, and shall be subject to all the provisions of law that apply to a city school district."

As you will note, Section 3311.16, Revised Code, states that "Any local, exempted village, city, or county board of education, or any combination of such districts" are eligible to participate in the formation of a joint vocational school district. These districts are all charged with various duties regarding the operation of public schools for the primary and secondary levels of education in Ohio. Section 3311.19, supra, provides that the "vocational schools in such joint vocational school district shall be available to all youth of school age." This refers to the so-called "compulsory education" statute, Section 3321.02, Revised Code, which requires the school attendance of all children between the ages of six and eighteen years (with certain exceptions not here pertinent) who reside in Ohio. Thus, a reading of the pertinent sections of the Revised Code show that a joint vocational school district is to be formed primarily for the purpose of providing vocational education for children of school age, who are required to attend school by virtue of the "compulsory education" statute, Section 3321.02, Revised Code.

Section 3311.215, Revised Code, provides:

"Facilities of the joint vocational school districts may be used for post-high school training, technical training, and re-training programs of vocational education."

This section specifically grants to the boards of education of joint vocational school districts the authority to allow the facilities of a joint vocational school to be used for post high school technical training and vocational education re-training programs. However, it cannot be said that Section 3311.215, supra, is authority for the formation of a joint vocational school district solely for the purposes enumerated therein. The plain and obvious meaning of Section 3311.215, supra, is that the facilities of a joint vocational school may, if desirable, be used by those officials conducting post high school technical training and vocational re-training programs. The statute is permissive regarding the use of public school facilities for purposes for which it would not be available absent specific statutory authority. It is, I think, a matter of common knowledge that various governmental agencies have embarked upon various programs of post high school technical training and of vocational re-training to meet both modern technological demands and the job loss due to automation and our changing economic society. By enacting Section 3311.215, supra, the General Assembly of Ohio provided for more economical

use of technical education facilities and avoided overlapping expenditures for such facilities .

It is well settled in Ohio that school boards, being creatures of statute, have only those powers expressly granted to them and those necessarily implied in order to carry out the express grants of power. In Verberg v. Board of Education, 135 Ohio St., 246, the Supreme Court of Ohio held that boards of education, being creatures of statute, have only such power and jurisdiction as is conferred by statute. See also Drury, Ohio School Guide (2d), Section 3.24, page 39. Therefore, in the absence of express statutory authority, boards of education of joint vocational school districts could not provide vocational training facilities for post high school training. Section 3311.215, supra, merely gives authority to joint vocational school districts to allow their facilities to be used for post high school training. That section does not authorize the establishment of a joint vocational school district primarily for the purposes set forth in Section 3311.215, supra.

Therefore, it is my opinion and you are advised that:

1. A joint vocational school district may be formed to provide vocational education and training for all youth of school age within the joint vocational school district.
2. A joint vocational school district may not be formed solely for the purpose of providing facilities for and operating programs described in Section 3311.215, Revised Code.

OPINION 65-18

Syllabus:

1. The requirement that all laws operate uniformly does not mean that all county court judges within a county court district are entitled to the increase in compensation provided for in the amendment to Section 1907.082, Revised Code, enacted by the 105th General Assembly (effective December 18, 1964) without regard to their term of office.

2. Only those county court judges whose terms commence after the effective date (December 18, 1964) of the amendment to Section 1907.082, Revised Code, are entitled to the increase in compensation provided therein.

To: John J. Malik, Jr., Belmont County Pros. Atty., St. Clairsville, Ohio
By: William B. Saxbe, Attorney General, February 5, 1965

Your request for my opinion reads as follows:

"Belmont County has three County Court Judges; one of the Judges was elected in