

542

## SYLLABUS:

1. Pupils engaged in drawing need not wear eye protective devices unless they are close enough to the equipment or activities enumerated in Section 3313.643, Revised Code, to be injured thereby.

2. Eye protective devices need not be used, under Section 3313.643, Revised Code, when explosive solutions are not in use or being handled.

3. By force of Section 3313.643, Revised Code, eye protective devices must be used by pupils using hand saws, hand planes, or other hand wood or metal working tools.

4. Pupils temporarily away from a welder or other metal working machine need not, under Section 3313.643, Revised Code, wear eye protective devices as long as such machines are not in operation.

Columbus, Ohio, September 26, 1963

Hon. E. E. Holt  
Superintendent of Public  
Instruction  
Department of Education  
Columbus, Ohio

Dear Sir:

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

“House Bill #492 which was passed by the current General Assembly enacted Section 3313.643 of the Revised Code which reads as follows:

“ ‘Every pupil and teacher in any public school participating in any of the following courses:

(A) Vocational or industrial arts shops or laboratories involving experience with:

- (1) Hot molten metals;
- (2) Milling, sawing, turning, shaping, cutting, or stamping of any solid materials;
- (3) Heat treatment, tempering, or kiln firing of any metal or other materials;
- (4) Gas or electric arc welding;
- (5) Repair or servicing of any vehicle;

## (6) Caustic or explosive materials;

(B) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids; is required to wear industrial quality eye protective devices at all times while participating in such courses or laboratories. A board of education may furnish such equipment for all visitors to such classrooms or laboratories. A board of education may purchase such devices in large quantities and sell them at cost to pupils and teachers.'

" 'Industrial quality eye protective devices,' as used in this section, means devices meeting the standards of the American Standard safety code for head, eye, and respiratory protection, Z2, 1-1959, promulgated by the American standards association, incorporated.

"The Department of Education has received a number of inquiries relative to this bill and we anticipate many more. The chief problem is that the school authorities cannot determine when pupils are required to wear the eye protective devices. The following are some examples of situations and activities where it is not clear whether the pupil should wear such devices:

1. In a large industrial arts shop there are pupils engaged in several varied activities. Some are working with wood working tools and machines, others are working with metal working tools and still others are engaged in drawing in one corner of the room. Must the pupils engaged in drawing wear the eye protective devices?

2. There are explosive materials stored in containers in a school printing shop which are used only for cleaning the type and equipment. Must the protective eye devices be used when the explosive solutions are not in use?

3. Must the eye protective devices be used when pupils are using a hand saw, a hand plane or other hand wood or metal working tools?

4. A pupil is using a welder or other metal working tool and is temporarily away from the machine. Perhaps he has gone to another portion of the same room for supplies, to look at a drawing, etc. Is it required that such pupil wear such eye protective device while away from the machine?

"Perhaps you can suggest some guide lines to follow so that school authorities will know when to require pupils to wear the prescribed eye protective devices."

On its face this statute appears to be free from ambiguity and a literal reading thereof would require that every pupil and teacher participating in courses, which involve experience with the enum-

erated materials or activities, wear eye protective devices at all times while participating in such courses. In other words, the requirement of eye protective devices is not determined by the activity engaged in but by the course or laboratory.

A latent ambiguity is revealed, however, by reference to Section Z2, 1-1959 American Standard safety code which is incorporated by reference in this section. It is ambiguous because the American Standard safety code does not set standards for a single protective device but sets different specifications for eye protective devices, depending on the activity engaged in. Thus there are devices to protect against (1) flying objects, (2) fine dust particles and liquid splashes, and (3) glare and radiation.

It is readily apparent then that there is no single eye protective device, by American Standard safety code specifications, that may be worn by pupils and teachers on all occasions in the designated courses or laboratories. Further, it is apparent that an eye protective device, to protect against glare and radiation for instance, would not be practical in blue print drawing.

Because of the ambiguity in Section 3313.643, Revised Code, and because there are, for apparent good reason, varying specifications for eye protective devices in the American Standard safety code depending upon the activity engaged in, I am of the opinion that the legislature intended that eye protective devices be worn only when engaging in, or in close proximity to, the activities enumerated in this section; or when handling or being in close proximity to those handling the materials listed in this section. Some discretion will have to be used by school authorities in determining when pupils or visitors, not engaged in a particular activity, are nevertheless in sufficient proximity thereto to require the use of eye protective devices. In addition to nearness to an activity, the school authorities will of course take into consideration any other protective devices such as walls, screens, etc.

Applying this conclusion to the specific questions you propound, I am of the opinion and you are advised:

1. That pupils engaged in drawing need not wear eye protective devices unless they are close enough to the equipment or activi-

ties enumerated in Section 3313.643, Revised Code, to be injured thereby.

2. That eye protective devices need not be used, under Section 3313.643, Revised Code, when explosive solutions are not in use or being handled.

3. By force of Section 3313.643, Revised Code, eye protective devices must be used by pupils using hand saws, hand planes, or other hand wood or metal working tools.

4. Pupils temporarily away from a welder or other metal working machines need not, under Section 3313.643, Revised Code, wear eye protective devices as long as such machines are not in operation.

Respectfully,  
WILLIAM B. SAXBE  
Attorney General