

of the corporation and not of the United States. Section 15 of such act makes the obligations of such corporation legal investments for certain fiduciaries functioning under federal laws, but does not purport to make such securities legal investments for fiduciaries controlled by state laws. Such section reads:

“Obligations of the Federal Home Loan Banks issued with the approval of the board under this Act shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. The Federal reserve banks are authorized to act as depositories, custodians, and/or fiscal agents for Federal Home Loan Banks in the general performance of their powers under this Act. All obligations of Federal Home Loan Banks shall plainly state that such obligations are not obligations of the United States and are not guaranteed by the United States.”

Since such bonds are not the bonds or obligations of the United States it is evident that no authority is granted in clause (a) of Section 10506-41, General Code, to a fiduciary to purchase such bonds. It is also apparent that since such bonds are not issued pursuant to the provisions of the federal farm loan act no authority to make such investment can be gained from clause (d) of Section 10506-41, General Code.

Specifically answering your inquiry it is my opinion that a guardian may not legally invest the funds of his ward in Federal Home Loan Bonds, since his investments are specifically limited to those mentioned in Section 10506-41, General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

1831.

LIBRARY—ESTABLISHMENT OF RENTAL COLLECTION FOR BOOKS  
AND CHARGE OF FEE FOR USE THEREOF UNAUTHORIZED BY  
SCHOOL DISTRICT LIBRARY.

*SYLLABUS:*

*A school district library cannot, by virtue of Section 7635, General Code, establish a rental collection for books and charge a fee to the persons to whom such books are issued.*

COLUMBUS, OHIO, November 6, 1933.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your communication which reads as follows:

“You are respectfully requested to furnish this department your written opinion upon the following:

May a school district library establish what they call a rental collection of books—that is, purchase extra copies of certain books which are

in demand, and charge a fee to the persons to whom such books are issued?"

The sections of the General Code relating to the establishment, maintenance, and control of a school district public library are Sections 7635 to 7640-1, inclusive. The sections pertinent to the inquiry you present provide inter alia as follows:

"Sec. 7635. The board of education of any city, village or rural school district, by resolution, may provide for the establishment, control and maintenance in such district, of a public library, *free to all the inhabitants thereof*. It shall provide for the management and control of such library by a board of trustees to be elected by it as herein provided.

Within ninety days after the taking effect of this act, boards of education administering public libraries directly, shall appoint such boards of library trustees, and transfer to them all public library property, real and personal."

"Sec. 7636. Such board of library trustees shall consist of seven members, who must be residents of the school district. No one shall be eligible to membership on such library board who is or has been for a year previous to his election, a member or officer of the board of education. \* \* \*"

"Sec. 7637. In its own name, such library board shall hold the title to and have the custody, and control of all libraries, branches, stations, reading rooms, of all library property, real and personal, of such school district, and of the expenditure of all moneys collected or received from any source for library purposes for such district. It may employ a librarian and assistants, but previous to such employment their compensation shall be fixed."

"Sec. 7638. \* \* \* *It (referring to the board) may accept any gift, devise or bequest for the benefit of such library.* \* \* \*"

(Italics and parenthesis the writer's.)

Section 7639, General Code, provides in substance that when the library trustees certify to the board of education of the school district the amount of money needed for maintaining and operating a library during the ensuing year, the board is required to levy a tax within certain specified limitations for the purpose of the library board and to the extent asked for by the board. The board of education has no authority to cut down the amount asked for only as it may be necessary in order to come within the limitations of the tax levy which the board of education is authorized, by statute, to make for the purpose. See Opinions of the Attorney General, 1931, Vol. I, at page 319.

Sections 7637 and 7638 of the General Code set forth the powers of the library board. A search of the statutes fails to disclose any provision allowing a per diem rental charge for books issued by a school district library, nor is there any statute implying such authority. Although by virtue of Section 7638, General Code, referred to supra, the board of trustees of such school district library may accept "any gift, devise, or bequest for the benefit of such library," it is hardly conceivable that a rental charge for any of the library books could be considered a voluntary gift or donation to the library. By reference to Section 7635, General Code, such library must be "free to all the inhabitants thereof" and the clear implication from this is that all books must be loaned free of any charge.

I call your attention to a former opinion of this office, Opinions of the Attorney General for 1931, Vol I, page 319, which held as disclosed by the fifth and sixth branches of the syllabus:

“\* \* \* \* \*

5. A public library established by authority of Section 7635, General Code, must furnish *free* library service to all the inhabitants of the school district in which it functions, including school pupils, teachers, and school authorities and all of said inhabitants are equally entitled to said service.

6. A board of trustees of a school district library established by authority of Section 7635, General Code, is a distinct, independent unit of government created for the purpose of providing *free* library service to all the inhabitants of the school district in which it functions.” (Italics the writer’s.)

The word free is defined in Webster’s New International Dictionary as follows:

“Given or furnished without cost or payment; free of charge, or the like; gratuitous \* \* \*.”

I am informed that the proposed plan of such libraries is that there is to be a free copy of a particular book, but a per diem rental charge on additional copies, such charge to be made until the cost of the additional copies are paid and then such books are to be put on the free list. However, I am unable to conceive of this as “free” library service under any definition of the word “free.”

Since I am unable to find any express or implied authority for such per diem charges on additional copies of books, even though such additional copies are to be later circulated without charge, and since such libraries are intended to be for the free use of the public, I am of the opinion that such rental charges for additional copies are unauthorized, and inconsistent with Section 7635, General Code, providing that such libraries must be “free to all the inhabitants thereof.”

Specifically answering your inquiry, it is my opinion that a school district library cannot, by virtue of Section 7635, General Code, establish a rental collection for books and charge a fee to the persons to whom such books are issued.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

1832.

SCHOOL—BOARD OF EDUCATION—UNAUTHORIZED TO LEASE ROOMS FOR SCHOOL PURPOSES ON CONDITION THAT CERTAIN TEACHERS BE EMPLOYED TO TEACH THEREIN—EMPLOYMENT OF TEACHERS AND ASSIGNMENT OF PUPILS IN CITY SCHOOL DISTRICT—SECTARIAN INFLUENCE IN PUBLIC SCHOOLS DISCUSSED.

SYLLABUS:

1. *It is not within the powers of a city board of education, when leasing rooms for public school purposes, to agree as a condition of said lease, that certain*