

3910.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO—\$30,000.00.

COLUMBUS, OHIO, January 4, 1932.

*Industrial Commission of Ohio, Columbus, Ohio.*

3911.

APPROVAL, NOTES OF ALLIANCE CITY SCHOOL DISTRICT, STARK COUNTY, OHIO—\$50,000.00.

COLUMBUS, OHIO, January 4, 1932.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

3912.

APPROVAL, BONDS OF VILLAGE OF WESTERVILLE, FRANKLIN COUNTY, OHIO—\$22,000.00.

COLUMBUS, OHIO, January 4, 1932.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

3913.

APPROVAL, NOTES OF EDISON VILLAGE SCHOOL DISTRICT, MORROW COUNTY, OHIO—\$34,500.00.

COLUMBUS, OHIO, January 4, 1932.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

3914.

SCHOOLS—FREE TO ALL RESIDENT YOUTH OF DISTRICT BETWEEN AGES OF SIX AND TWENTY-ONE—NO DISTINCTION MADE AS TO GRADUATION.

SYLLABUS:

*Section 7681, General Code, provides that the schools of each district shall be free to all resident youth of the district between the ages of six and twenty-one years, no distinction being made as to graduation or other conditions.*

COLUMBUS, OHIO, January 5, 1932.

HON. B. O. SKINNER, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"A city school district graduates a large class from the high school

each year; a hundred of these students return for further study. If the facilities are inadequate, can the Board of Education bar these students, even though they are not over twenty-one years of age?

Can the Board of Education charge these students tuition?"

Section 7681, General Code, reads in part, as follows:

"The schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district, \* \* But all youth of school age living apart from their parents or guardians and who work to support themselves by their own labor, shall be entitled to attend school free in the district in which they are employed."

Although boards of education are empowered by statute to make rules and regulations for the government and conduct of schools under their jurisdiction, they clearly are not empowered to make a rule which conflicts with a regulation made by statute. The language of Section 7681, *supra*, quoted above, is clear and unambiguous, and makes no distinction among pupils within the prescribed ages.

A somewhat similar question was presented to a former Attorney General, in response to which he rendered his opinion, which may be found in Opinions of the Attorney General for 1921, at page 951. In the course of this opinion, after quoting the portion of Section 7681, quoted above, he stated:

"This section removes any doubt as to the intent and purpose of the law as to all youth between the ages of six and twenty-one years. To them the schools of each district are free and open, and they are privileged to avail themselves of any advantages such schools afford during that period. So long as a resident of a district is under the age of twenty-one years he may attend the schools of the district free. No distinction is made as to sex, nor as to graduation or other conditions."

A board of education is not required to provide post-graduate courses or special courses not listed as regular high school subjects, for the benefit of high school graduates who wish to return to school, but may do so if desired.

I am of the opinion that a board of education is without authority to exclude children, wards or apprentices of actual residents of the district from the schools of the district, providing they are between six and twenty-one years of age, regardless of the fact that they have already completed the regularly prescribed high school course.

I am also of the opinion that resident pupils between six and twenty-one years of age may not be charged tuition for attendance at school in the said district, regardless of whether or not they have previously graduated from high school.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*