

In reply to your inquiry you are advised that it is the opinion of this department that a board of education is without authority to expend its funds or advance money for the rent of and the furnishing of a house to be used as a teachers' home; but a board of education may, under the provisions of section 7624 G. C., purchase real estate as a site for the purpose of erecting such a home for school teachers employed in the district, when the cost of the erecting of the building has been contributed by private donations.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3015.

COUNTY BOARD OF EDUCATION—TRANSFER OF TERRITORY FROM ONE SCHOOL DISTRICT TO ANOTHER—SECTION 4692 G. C. APPLIES—NO PROVISION IN SAID SECTION FOR PETITION OF ELECTORS FOR TRANSFER EXCEPT REMONSTRANCE.

Where it is desired to transfer certain territory from one school district to another school district in the same county school district and within the jurisdiction of the same county board of education, the provisions of section 4692 G. C. apply. There is no provision in section 4692 G. C. for any petition on the part of the electors, the only provision in such section being that a remonstrance and not a petition can be filed with the county board of education.

COLUMBUS, OHIO, April 21, 1922.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction, as Director of Education, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for an opinion upon the following:

"1. A petition has been filed with the county board of education of Fairfield county praying that certain territory be transferred from a township rural school district to a village school district, both districts being a part of the Fairfield county school district and within the jurisdiction of the Fairfield county board of education. The village school district above mentioned does not belong to that class of school districts which have a population of 3,000 or more and which are known as *exempted village school districts*. Under what section of the General Code can such a transfer be made by the county board of education?

"2. If seventy-five per cent of the electors in the territory sought to be transferred in the above case petition the county board, asking that such transfer be made, is it mandatory upon the county board to make such transfer; or in other words, do any of the provisions of section 4696 G. C. apply in making such a transfer as the one mentioned above?"

Section 4692 G. C. (106 O. L., 396) reads in part as follows:

"The county board of education may transfer a part or all of a school district of the county school district to an adjoining district or districts of the county school district. * * * * nor shall such transfer take effect

if a majority of the qualified electors residing in the territory to be transferred shall, within thirty days after the filing of such map, file with the county board of education a written remonstrance against such proposed transfer. * * *

You will thus see that it is section 4692 under which a county board of education should act in transferring territory from one school district to another school district, where both school districts are under the jurisdiction of the county board of education and a part of the same county school district.

Where territory is to be transferred from a county school district to an exempted village, city or county school district, or vice versa, the section which should be used is section 4696 G. C., as amended in Senate Bill 102 and appearing at page 65 Ohio Laws 109. The transfer of school territory which you describe in your first question therefore falls within the language of section 4692 G. C., and section 4696 G. C. has no application at all in the instant case.

In your second question you desire to know if seventy-five per cent of the electors in the territory sought to be transferred petition the county board asking that such transfer be made, is it mandatory upon the county board to make such transfer; or in other words, do any of the provisions of section 4696 G. C. apply.

One of the provisions in section 4696 which does not appear in 4692 G. C. is the right of petition possessed by the electors residing in the territory to be transferred. In fact, as held in a prior opinion of this department, a county board of education cannot act under section 4696 G. C. until there is a petition filed by a majority of the electors residing in the territory to be transferred. Section 4692 G. C. was enacted in 106 O. L., p. 396, and has never been amended since that time. On the other hand, section 4696 (first enacted in 106 O. L.) was amended in 108 O. L., Part 1, p. 704, and again in 109 O. L., p. 65. Thus the two sections are distinct enactments, each to be used without any reference whatever to the other, since each section appears to be complete within itself for the purposes to be accomplished by the section used. No right of petition is set forth in section 4692 G. C., but there is a right of remonstrance to prevent the transfer by a county board of education within a county school district where the same has been filed within thirty days after the filing of the map described in section 4692. Thus it was held in the second branch of the syllabus of Opinion 655, appearing at page 1195, Vol. 2, Opinions of the Attorney-General for 1919, as follows:

"In transfers of school territory under section 4692 G. C., there is no provision for any petition on the part of the electors, the only provision in such section being that a remonstrance and not a petition can be filed with the county board of education."

Since your question has to do with the signing of the petition in the matter of a transfer of school territory, your attention is also invited to section 4727, as amended in 108 O. L., 235. This section bears upon transfers from centralized school territory and here the petition speaks of two-thirds of the qualified electors, while in section 4696 G. C. the number required is seventy-five per cent of the electors. In construing section 4727 G. C. in Opinion 655, appearing at page 1195, Vol. 2, Opinions of the Attorney-General for 1919, the first branch of the syllabus reads:

"Under section 4727 G. C., as amended by House Bill 163, the county board of education may transfer territory to or from a centralized school district upon the petition of two-thirds of the qualified electors of the ter-

ritory petitioning for transfer. But there is nothing mandatory in such section that the county board of education shall make such transfer."

Since the issuance of Opinion 655 by this department on September 25, 1919, there has been no change in section 4692 as it was originally enacted in 106 O. L., 396, and therefore the condition which obtained at that time is still in force.

You are therefore advised, in answer to your inquiry, that where it is desired to transfer certain territory from one school district to another school district in the same county school district and within the jurisdiction of the same county board of education, the provisions of section 4692 G. C. apply. There is no provision in section 4692 G. C. for any petition on the part of the electors, the only provision in such section being that a remonstrance and not a petition can be filed with the county board of education.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3016.

BOARD OF LIBRARY TRUSTEES OF VILLAGE SCHOOL DISTRICT—
TRANSITION OF VILLAGE TO CITY—MEMBERS OF SAID BOARD
MAY LAWFULLY CONTINUE TO SERVE AS SUCH TRUSTEES
UNTIL EXPIRATION OF THEIR TERMS—BOARDS OF EDUCATION
MAY PURCHASE BOOKS AND OTHER PERIODICALS FOR THEIR
OFFICIAL USE AND THAT OF PUPILS.

1. *A board of library trustees of a village school district, appointed and created under the provisions of sections 7631 and 7636 G. C., is unaffected by the change of the village school district to the city district upon the transition of a village to a city, and the members of such a board may lawfully continue to serve as trustees until the expiration of the respective terms of their appointment.*

2. *Under the provisions of section 7620 G. C., boards of education may lawfully purchase books and other periodicals for their official use and that of the pupils, when deemed advantageous and for the best interests of the schools under their management and control.*

COLUMBUS, OHIO, April 21, 1922.

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

GENTLEMEN:—Receipt is acknowledged of your recent communication which reads as follows:

"We respectfully request your written opinion upon the questions contained in the enclosed letter from Mr. G. E. Hartshorn, director of law of Cleveland Heights, Ohio."

The letter referred to above reads as follows:

"As you doubtless know, Cleveland Heights went under a city form of government on the 1st of January, 1922. Previous to that time it had operated under a village form of government. The undersigned is director of law of city and legal adviser of the school board. Up to the 1st of January,