

1616.

VOCATIONAL EDUCATION—BOARD OF EDUCATION CAN CONDUCT SUCH CLASSES OUTSIDE LIMITS OF SCHOOL DISTRICT—WHO MAY ATTEND SUCH CLASSES.

1. *A board of education can conduct its vocational classes outside the limits of the school district and can use its educational funds in the conduct of such classes.*

2. *Schools of each district, including vocational educational classes, 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, including children of proper age who are inmates of a county or district or of any public or private children's home or orphans' asylum located in such district, and other persons than those mentioned in section 7681 G. C. may be admitted to the schools of the district, including its vocational classes, upon such terms or upon the payment of such tuition as the board of education of the district may prescribe.*

COLUMBUS, OHIO, October 15, 1920.

HON. ALFRED VIVIAN, *President State Board of Education, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request of September 9, for an opinion upon the following questions:

"1. Is it allowable for a city board of education to use a part of its educational funds to conduct classes which lie outside of the boundaries of the city school district, provided that the city board of education is promised reimbursement by the state board of education for the money thus expended?

2. Is it permissible for the city board of education to admit to its schools in special vocational classes, students who reside outside the boundary lines of the city school district when such students do not pay a tuition fee?

3. Is it permissible for classes receiving aid under the vocational education bill to charge the usual tuition fee to students who are not residents of the city school district? By the usual tuition fee is meant the fee which is customarily charged by the city schools to students who reside outside of the city school district."

In explaining the condition which gives rise to these questions, you say:

"These questions have arisen in connection with the shop workers residing outside of the city of Cincinnati. These people are outside of the city school district but it was desired to arrange vocational classes for them and have these classes conducted under the auspices of the Cincinnati board of education. The city attorney of Cincinnati doubts the legality of using any of the funds of the city board of education for classes which are conducted outside the limits of the city school district."

Authority on the part of the city board of education to establish and maintain vocational schools to which adults may be admitted, is discussed fully in Opinion No. 1227, issued by this department on May 8, 1920, the syllabus of which reads:

"A city board of education may establish and maintain vocational

schools to which adults may be admitted and may erect and equip suitable buildings or set apart and use buildings under the control of the board of education for such purposes in the same manner and within the same limitations as it establishes and maintains buildings for other school purposes. However, the said schools should not be established for the exclusive use of adult people, but rather for all who are eligible to attend."

Your first question now is, whether a city board of education, having authority to conduct vocational schools or classes, can conduct these classes outside the limits of the city school district.

Section 7690 G. C. reads in part as follows:

"Each board of education shall have the management and control of the public schools of whatever name or character in the district."

Section 7620 G. C., as amended in 108 O. L., page 187, reads in part as follows:

"The board of education of a district may * * * rent suitable school rooms *either within or without the district* and provide the necessary apparatus and make all other necessary provisions *for the schools under its control.* * * *"

Among the schools which would be under the control of a board of education would be those vocational classes which have been regularly established by the board of education of the city school district co-operating with the state board of education, in the administration of the federal Smith-Hughes law, providing for education of persons in agricultural, trade, industrial and home economic subjects. (367-1 G. C.)

As indicated in prior opinions of this department, the state of Ohio, having accepted by legislative enactment all of the provisions of the Smith-Hughes law, the provisions of this latter act become an integral part of the school plan of the state, ample authority having been given to the state board of education to carry out the provisions of such act. Thus in section 367-5 G. C. the following language occurs:

"The state board of education shall have all necessary authority * * * to promote and aid in the establishment by local communities of schools, departments and classes, giving training in such subjects; to co-operate with local communities in the maintenance of such schools, departments and classes."

The purpose of the Smith-Hughes act for vocational education is to place at the disposal of both youth and adults opportunities for further educational advancement along industrial and agricultural lines. The practical side to agricultural work must be considered and the use of grounds outside of a city district might be needed; and this is provided for as heretofore indicated in section 7620 G. C. Again, as in the particular case which you indicate, certain shops are located outside the limits of the city school district and it is possible that better work could be done for the persons in these industrial vocational classes if they had access to these shops, which are a part of the industrial life of the Cincinnati community, even if physically located outside the boundaries of the city school district. To place a narrow view upon the administration of the Smith-Hughes act would not be carrying out its real spirit for the reason that the act itself speaks of "communities" and not particularly of the districts, thus a metropolitan community or a metropolitan district might not necessarily be the same school district, but might be the same community as intended in the Smith-Hughes act providing for vocational education. Yet some board of

education in that community must function with the state board of education, or vocational education in that community fails.

The answer to your first question, in harmony with opinion No. 1247, issued by this department, and under authority of section 7620 G. C. is that a board of education can conduct vocational classes outside the limits of the city school district and can use its educational funds in the conduct of such classes.

Your second question is whether it is permissible for the city board of education to admit to special vocational classes, without the payment of a tuition fee, those students who reside outside the city school district. Pertinent sections of the law read as follows:

Section 7680: "Any person more than twenty-one years old may be permitted to attend evening school upon such terms and upon payment of such tuition as the board of education may prescribe." (90 v. 117)

Section 7681: "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."

Section 7682: "Each board of education may admit other persons upon such terms or upon the payment of such tuition as it prescribes."

Vocational classes are conducted by the board of education as part of its curriculum and persons other than those mentioned in section 7681 are governed by section 7682 G. C.; that is to say, the schools of the district, of whatever nature, are free to the youth of the district, between six and twenty-one years of age, while other persons may be admitted on such terms or payment of tuition as the board of education may prescribe.

The answer to your third question, as to whether it is permissible to charge the "usual" tuition fee to non-residents of the city school district, is in the affirmative, as the board of education prescribes tuition charges under section 7682 G. C., but the local board should govern its tuition charges to pupils on the amount expended by the board from its funds for that particular school activity.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1617.

OHIO COMMISSION FOR BLIND—PERSON NOT INELIGIBLE TO ADMISSION TO COUNTY HOME BECAUSE HE OR SHE IS BLIND IMBECILE—AUTHORITY OF JUDGE OF JUVENILE COURT WHEN HE IS SATISFIED BLIND CHILD IS NOT BEING PROPERLY EDUCATED AT COUNTY HOME—NOT ILLEGAL FOR BLIND INMATES OF COUNTY HOMES TO PERFORM LABOR FOR OHIO COMMISSION FOR BLIND.

1. *A person is not ineligible to admission to the county home merely because he or she is a blind imbecile.*
2. *The judge of the juvenile court, when satisfied that a blind child is not*