

1401.

PUBLIC HEALTH NURSE—WHEN EMPLOYED BY CITY HEALTH DISTRICT, BOARD OF EDUCATION MAY NOT CONTRIBUTE PART OF SALARY—ADDITIONAL COMPENSATION MAY BE PAID WHEN.

SYLLABUS:

A board of education may not contribute to a city a part of the salary of a public health nurse employed by the city health district, but may pay the nurse compensation in addition to that paid by the health district in the event the board of education delegates the duties and powers of a school physician and nurse to the board of health of the city health district.

COLUMBUS, OHIO, August 15, 1933.

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

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

“Section 7692 of the General Code, authorizes a board of education to employ a school physician and trained nurse. It provides further that the board of education may delegate the duties and powers provided for to the board of health or officer performing the functions of a board of health within the school district, if such board or officer is willing to assume the same.

QUESTION: In a city school district wherein the board of education has delegated the general inspection of school children to the city board of health, and the city board of health employs a physician and nurse, may the board of education contribute to the city a part of the salary of the nurse?”

Section 7693, General Code, provides, as follows:

“The board of education of any school district, may provide and pay compensation to the employes of the board of health in addition to that provided by the city, township or other municipality.”

It will be observed from a reading of the foregoing statute, that the authority extended to a board of education to pay compensation to the employes of the board of health in addition to that provided by the subdivision of which they are employes, does not authorize the payment by the board of education to the subdivision but to the employe, and whatever is paid by the board of education is in addition to the salary fixed for the employe by the subdivision employing him.

It can not properly be said that a board of education is authorized to contribute to a city health district a part of the salary of a public health nurse employed by the health district but the board may pay the nurse compensation in addition to that paid by the city health district.

I am therefore of the opinion, in specific answer to your question, that a board of education may not contribute to a city a part of the salary of a public health nurse employed by the city health district, but may pay the nurse com-

pensation in addition to that paid by the health district in the event the board of education delegates the duties and powers of a school physician and nurse to the board of health of the city health district.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1402.

BOARD OF PAROLE—MAY REVOKE PAROLE AND RECOMMIT VIOLATOR THEREOF WHEN.

SYLLABUS:

1. *Whenever by the commission of a crime the terms of a parole are violated, the Board of Parole may revoke such parole and order the recommitment of the parole violator even though at the time of the revocation of the parole the parolee is incarcerated in a penal institution for the commission of a subsequent crime.*

2. *A prisoner who is sentenced to and incarcerated in the Ohio Penitentiary for the commission of a crime while out on parole from the Ohio State Reformatory may be declared a parole violator by the Board of Parole, in which event the board may either revoke the parole of the prisoner and order his recommitment to the Ohio State Reformatory on the expiration of the sentence to the Ohio Penitentiary or re-parole the prisoner or make such other disposition of the parolee as it sees fit, providing the Board of Parole does not exceed its authority.*

3. *The running of the sentence of a parolee who has violated the terms of his parole is not suspended or tolled until the Board of Parole declares such prisoner to be a parole violator. A person who is declared a parole violator by the Board of Parole because while on parole from the Ohio State Reformatory he has been convicted of a felony and sentenced therefor to the Ohio Penitentiary, must be deemed a parole violator on the records of the Ohio State Reformatory as long as he remains without the confines of that institution, even though his return to the Ohio State Reformatory is made impossible by virtue of his incarceration in the Ohio Penitentiary.*

4. *Where the Board of Parole, for the violation of a parole, orders the recommitment of the parole violator to the institution from which the prisoner was paroled, such order of the board cannot interfere with or suspend the execution of a sentence imposed by a court on the parole violator for an offense committed by him while on parole even though by virtue of section 2211-9 the Board of Parole has the power on the revocation of a parole to recommit the prisoner to the institution from which he was paroled.*

COLUMBUS, OHIO, August 15, 1933.

HON. JOHN MCSWEENEY, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your letter which reads in part as follows:

“An inmate of the Ohio State Reformatory is paroled and while on parole commits another felony and is sentenced by the court to the Ohio Penitentiary.