

3944

FUND, STATE PUBLIC SCHOOL — AVERAGE DAILY ATTENDANCE — PUPILS IN DISTRICT WHERE SCHOOL MAINTAINED MORE THAN 180 DAYS IN SCHOOL YEAR — TO COMPUTE, DIVIDE TOTAL DAILY PUPIL ATTENDANCE FOR EACH DAY SCHOOL IN SESSION BY NUMBER OF THOSE DAYS — RESULT — AVERAGE DAILY ATTENDANCE.

AMOUNT, APPORTIONED AND PAID — MULTIPLY SUM EQUAL TO AMOUNT FIXED BY STATUTE FOR DAY, AVERAGE DAILY ATTENDANCE, IN CLASSES AND GRADES IN DISTRICT BY AVERAGE DAILY ATTENDANCE IN CLASSES AND GRADES AS ABOVE SET OUT — RESULT, MULTIPLIED BY 180, AMOUNT APPORTIONED AND PAID TO SUCH DISTRICT — SECTION 7595-1 G.C.

SYLLABUS:

The average daily attendance of school pupils in school districts wherein school is maintained for more than one hundred and eighty days in a school year, as the basis for the distribution of the State Public School Fund under and in pursuance of Section 7595-1, General Code, should be determined by dividing the total of the daily pupil attendance for each of the days the school is in session during the year by the number of those days: the result will be the average daily attendance.

The amount that should be apportioned and paid from the State Public School Fund to school districts wherein schools had been maintained for more than one hundred and eighty days during the school year next preceding such apportionment, under and in pursuance of Section 7595-1, General Code, should be determined by multiplying a sum equal to the amount fixed by the statute for a day of average daily attendance in the classes and grades in the district by the average daily attendance in the classes and grades determined as set out in the preceding paragraph. The result so obtained, multiplied by 180 is the amount that should be apportioned and paid to such district.

Columbus, Ohio, July 1, 1941.

Hon. Carl W. Rich, Prosecuting Attorney,
Cincinnati, Ohio.

Dear Sir:

Over the signature of one of your assistants, I am asked for an official opinion as to the proper manner of apportionment for distribution of the State Public School Fund to school districts which had more than one hundred and eighty days of school during the school year next preceding such apportionment, particularly with respect to the manner of determining "average daily attendance" in such district, which is the basis of the apportionment.

The pertinent part of Section 7595-1, General Code, which provides for the distribution of the State Public School Fund is as follows:

"There shall be apportioned and paid from the state public school fund to each school district of the state an amount equal to twenty cents a day for each pupil of school age in average daily attendance in part-time, continuation and evening schools and, for regular day school attendance, an amount equal to seventeen cents per day for each pupil thereof in average daily attendance in grades 1 to 8, inclusive, and an amount equal to eight and one-half cents per day for each pupil five years of age or over in average daily attendance in kindergarten classes and an amount equal to twenty-five and one-half cents per day for each pupil thereof in average daily attendance in grades 9 to 12, inclusive, during the school year next preceding such apportionment, except that in districts maintaining one or more schools, each or any of which have fewer than three teachers, the amount to be paid such districts on account of attendance in such schools shall be limited by the minimum operating cost of the foundation program as defined by law or as determined by the director of education pursuant to law. * * * No apportionment of money out of the state public school fund shall be made to any school district for a school year of more than one hundred eighty days."

It will be observed that under the terms of the above statute there is to be apportioned and paid from the State Public School Fund to each school district in the state, with certain exceptions, an amount equal to a definite fixed sum "a day" for each pupil qualified somewhat as to age, in average daily attendance in the several grades and classes mentioned, in the schools of each such district during the school year next preceding the apportionment.

The basis of the apportionment is by the statute "average daily attendance," the concept of which may be envisaged by the integration of the constant "a day" and the variable "each pupil." The process of arriving concretely at the average daily attendance of pupils in a class or grade of school over a stated period of time clearly would consist of dividing the sum of the pupil attendance for each of the several days in the period by the number of days in the period.

The only way, in my opinion, to determine average daily attendance, as the expression is used in Section 7595-1, General Code, for a particular school or district or class or grade in such school or district, is to compute it for the entire period the school or class is in session, whether that is one hundred and eighty days or more or less. If the school session covers a period of less than one hundred and eighty days, there of course is no difficulty in determining the total amount to be apportioned and paid from the Public School Fund to the district. The method of such determination would consist of the simple arithmetical process of multiplying a sum equal to the amount of money fixed by the statute for a day of average daily attendance in each of the classes and grades in the district, by the average daily attendance in each such class or grade determined as hereinbefore stated. The sum of the result obtained by this process for each of the several grades or classes of schools involved, multiplied by the number of days the grades or classes were in session, would give the amount apportionable and payable from the State Public School Fund to the district in accordance with Section 7595-1, *supra*. The same method should be followed in my opinion, to determine the amount to be apportioned and paid to a district which had been in session for more than one hundred and eighty days in the school year next preceding the apportionment, except that in the latter instance because of the limitation fixed by the statute, the total number of days the school was in session should be limited in the computation to one hundred and eighty days.

I am informed that the procedure in determining the average daily attendance under and in pursuance of Section 7595-1, in districts where schools were open more than one hundred and eighty days in a school year has not in all cases been uniform. This clearly is not the intent of the law. In some cases there has been used the one hundred and eighty days of the school year where the attendance was highest to determine the total attendance from which average daily attendance was computed,

whether the one hundred and eighty days taken were consecutive or not. This method would not, in my opinion, be fair to the other participants in the school fund and would not be in accord with the intent of the law which it should be noted at all times contemplates fairness, reasonableness and impartiality in its application.

I am therefore of the opinion that the average daily attendance of school pupils in school districts wherein school is maintained for more than one hundred and eighty days in a school year, as the basis for the distribution of the State Public School Fund under and in pursuance of Section 7595-1, General Code, should be determined by dividing the total of the daily pupil attendance for each of the days the school is in session during the year by the number of those days: the result will be the average daily attendance.

The amount that should be apportioned and paid from the State Public School Fund to school districts wherein school had been maintained for more than one hundred and eighty days during the school year next preceding such apportionment, under and in pursuance of Section 7595-1, General Code, should be determined by multiplying a sum equal to the amount fixed by the statute for a day of average daily attendance in the classes and grades in the district by the average daily attendance in the classes and grades determined as set out in the preceding paragraph. The result so obtained, multiplied by 180 is the amount that should be apportioned and paid to such district.

Respectfully,

THOMAS J. HERBERT,
Attorney General.