

2947.

SCHOOLS—COUNTY BOARD OF EDUCATION MAY PROMULGATE RULES AND REGULATIONS WHEREBY CHILDREN MAY BE EXCUSED ONE HOUR EACH WEEK FOR THE PURPOSE OF ATTENDING CATECHISM.

SYLLABUS:

*Until such time as contrary or conflicting rules and regulations are promulgated by the Department of Education, as authorized by the last paragraph of section 7763 G. C., a county board of education under authority of the same section may promulgate rules and regulations whereby children may be excused one hour each week for the purpose of attending catechism, if in the exercise of their discretion such board deems same a good and sufficient reason.*

COLUMBUS, OHIO, November 20, 1925.

HON. GEORGE A. MEEKISON, *Prosecuting Attorney, Napoleon, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication of recent date in which you submit the following inquiry:

“Can a county board of education, under the provisions of section 7763, sub-title 3, excuse children one hour per week during the cold weather for the purpose of attending catechism under the direction of the Lutheran church?”

“If this section of the statute is not applicable, do you know of any other section of the statute permitting such action?”

Section 7763 of the General Code of Ohio, as amended by the 86th General Assembly, reads as follows:

“Every parent, guardian, or other person having charge of any child of compulsory school age who is not employed on an age and schooling certificate and who has not been determined in the manner provided by law to be incapable of profiting substantially by further instruction, must send his child to a public, private or parochial school for the full time the school intended is in session, which shall in no case be for less than thirty-two weeks per school year. Such attendance must begin within the first week of the school term or within one week of the date at which the child begins to reside in the district or within one week after his withdrawal from employment.

“Provided, that excuses from future attendance at or past absence from school may be granted for the causes, by the authorities and under the conditions hereinafter prescribed, to wit:

“1. The superintendent of schools of the district in which the child resides may excuse him from attendance for all or any part of the remainder of the current school year upon satisfactory showing of either of the following facts:

“(a) That his bodily or mental condition does not permit of his attendance at school during such period;

“(b) That he is being instructed at home by a person qualified to teach the branches in which instruction is required by law, and such additional

branches, if any, as the advancement and needs of the child may, in the opinion of such superintendent require. In each such case the issuing superintendent shall file in his office, with a copy of the excuse, papers showing how the inability of the child to attend school or the qualifications of the person instructing the child at home were determined. All such excuses shall lapse and become void and subject to recall upon the removal of the disability of the child or the cessation of proper home instruction as the case may be; and thereupon the child or his parents, guardians, or other persons having him in charge may be proceeded against after due notice whether such excuse be recalled or not.

"2. The department of education may adopt rules and regulations authorizing the superintendent of schools of the district in which the child resides to excuse a child over fourteen years of age from attendance for a future limited period for the purpose of performing necessary work directly and exclusively for his parents or legal guardians.

"All excuses provided for in the two preceding paragraphs shall be in writing and shall show the reason for excusing the child. A copy thereof shall be sent to the person in charge of the child.

"3. The board of education of the city, exempted village or county school district in which a public school is located or the governing authorities of a private or parochial school may in the rules and regulations governing the discipline in such schools, prescribe the authority by which and the manner in which any child may be excused for absence from such school for good and sufficient reasons.

"The department of education may by rules and regulations prescribe conditions governing the issuance of excuses hereunder which shall be binding upon the authorities hereby empowered to issue them."

Examination of the above section reveals that same provides when school attendance shall be compulsory, and then enumerates certain exceptions, or rather causes for, conditions under which, and the authorities by whom excuses from attendance may be issued, as follows:

1. The superintendent of schools of the district in which the child resides may excuse him upon satisfactory showing of either of two situations therein set forth;

2. The department of education may adopt rules and regulations authorizing the superintendent of schools of a district to excuse a child over fourteen years of age for a future limited period for the purpose of performing certain work for his parents or legal guardians;

3. A county board of education may, in rules and regulations, prescribe the authority by which, and the manner in which any child may be excused for absence from such school *for good and sufficient reasons*, but it is not believed rules thus prescribed by the county board of education could be made to interfere or conflict in any way with the issuance of excuses under 1 and 2 supra; and, furthermore, such rules and regulations may be superseded by the rules and regulations of the department of education authorized in the last paragraph of the above section, which provides that the department of education may, by rules and regulations, prescribe conditions governing the issuance of excuses hereunder which shall be binding upon the authorities empowered to issue them.

Therefore, I am of the opinion that until such time as contrary or conflicting rules and regulations are promulgated by the department of education as authorized in the last paragraph of section 7763 supra, a county board of education may promulgate rules and regulations whereby children may be excused one hour each week

for the purpose of attending catechism, if in the exercise of their discretion such board deems same a good and sufficient reason.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

2948.

COUNTY COMMISSIONERS—MAY NOT LEGALLY PAY CLAIM FOR FUNERAL EXPENSES OF A DECEDENT WHO HAS DIED FROM HYDROPHOBIA—SECTION 5851 G. C. CONSTRUED.

**SYLLABUS:**

*County commissioners may not lawfully approve and pay a claim for funeral expenses presented by the administrator of a decedent who has died from hydrophobia, resulting from having been bitten by a dog afflicted with rabies.*

COLUMBUS, OHIO, November 20, 1925.

HON. STANLEY E. MOTE, *Prosecuting Attorney, Greenville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication, in which you submit the following question:

“Can the county commissioners lawfully order the payment of funeral expenses to the administrator of one who has died from hydrophobia resulting from having been bitten by a dog afflicted with rabies, under the provisions of sections 5851 and 5852, General Code?”

Section 5851, General Code, reads as follows:

“A person bitten or injured by a dog, cat or other animal afflicted with rabies, if such injury has caused him to employ medical or surgical treatment or required the expenditure of money, within four months after such injury and at a regular meeting of the county commissioners of the county where such injury was received, may present an itemized account of the expenses incurred and amount paid by him for medical and surgical attendance, verified by his own affidavit or that of his attending physician; or the administrator or executor of a deceased person may present such claim and make such affidavit. If the person so bitten or injured is a minor such affidavit may be made by his parent or guardian.”

Section 5852 of the General Code reads as follows:

“The county commissioners not later than the third regular meeting, after it is so presented, shall examine such account, and, if found in whole or part correct and just, may order the payment thereof in whole or in part, out of the general fund of the county; but a person shall not receive for one injury a sum exceeding five hundred dollars.”

It will be noted, from a reading of the first quoted section, that a person who has been bitten or injured by a dog, cat or other animal afflicted with rabies, may