

There is no statutory inhibition against the deputy treasurer resigning during the period of collection of taxes and receiving the appointment to collect the delinquent personal taxes. However, I express no opinion on the policy of making such appointment.

You are therefore advised that it is my opinion that neither a county treasurer, nor his deputy, is entitled to a per cent in addition to the regular salary, on the collection of delinquent personal taxes, and that there is no statutory inhibition against the deputy treasurer resigning and receiving the appointment to collect the delinquent personal taxes.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

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SUPERINTENDENT OF SCHOOLS—SECTION 7689, GENERAL CODE, RELATIVE TO CHANGING THE TIME OF THE SCHOOL YEAR, HAS NO EFFECT ON SECTION 7702, GENERAL CODE, RELATIVE TO THE TIME FOR EMPLOYING SUPERINTENDENT.

*SYLLABUS:*

*The amendment of General Code Section 7689 as found in 111 O. L. 371, changing the time of the school year in Ohio, has no effect on the provisions of Section 7702 of the General Code with reference to the time for employing the superintendent of schools.*

COLUMBUS, OHIO, April 1, 1927.

HON. VERNON M. RIEGEL, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication, which is as follows:

“Your opinion is desired upon the following point:  
Section 7702 G. C. reads as follows:

“The board of education in each city school district at a regular meeting, between May 1st and August 31st, shall appoint a suitable person to act as superintendent of the public schools of the district, for a term not longer than five school years, beginning within four months of such appointment and ending on the 31st day of August.

Provided, that in the event of a vacancy occurring in the office of the superintendent prior to May 1st, the board of education may appoint a superintendent for the unexpired portion of that school year.

Provided, also, that if the vacancy occur through resignation or removal for cause, the superintendent thus resigning or removed shall be ineligible for reappointment to such office until after the reorganization of the board of education following the next general election of members of such board.’

A school year is defined by Section 7689 G. C. as beginning on the first day of July of each calendar year and closing on the 30th day of June on the succeeding calendar year. What effect does this definition of the school year have upon the time for employing a superintendent as designated in Section

7702? Is the first paragraph of Section 7702 rendered obsolete by this later enactment?"

Section 7702 of the General Code of Ohio was amended on May 31, 1911, to read as you have quoted it in your letter. At that time Section 7689 of the General Code read as follows:

"The school year shall begin on the first day of September of each year, and close on the thirty-first day of August of the succeeding year. A school week shall consist of five days, and a school month of four school weeks."

This latter section was later amended in 111 O. L. page 371, to read as it now reads, which is as follows:

"Beginning on July 1, 1925, the school year shall begin on the first day of July of each calendar year and close on the thirtieth day of June of the succeeding calendar year; provided that reports for the school year beginning September 1, 1924, shall be for the ten months ending June 30th, 1925. A school week shall consist of five days, and a school month of four school weeks."

You will note that at the time Section 7702, General Code, was last amended providing that a superintendent of public schools should be appointed for a term of not more than five school years, which should end on the 31st day of August, the school year was defined by the terms of Section 7689 as then in force as beginning on the first day of September and ending on the 31st day of August, and the provisions of Section 7702 were made to conform to the school year as it then existed. The amendment which is found in 111 O. L. simply changed the time of the school year.

In the case of *Layton vs. Clements et al.*, 27 O. C. A., page 369, the court had under consideration the terms of Section 7702 with reference to the time of the term of appointment of a superintendent of schools and the court there said:

"The provision of Section 7702, General Code, that the term of a superintendent of schools must end on August 31st is directory and not mandatory, time not being the essence of the contract."

In this case the superintendent of schools had been employed for a term ending on the first day of July, 1913, and it was contended that his contract was illegal because the statute provided that the term of appointment must end on the 31st day of August, but the court held that this made no difference and that the term of appointment need not necessarily end on the 31st day of August.

I am of the opinion that it is of no practical significance whether or not there is any conflict in the terms of Sections 7702 and 7689 of the General Code as they now read and that the definition of a school year as set out in the provisions of Section 7689, General Code, as amended, has no effect upon the time for employing the superintendent as designated in Section 7702, General Code.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*