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SCHOOL DISTRICTS—TWO OR MORE—VILLAGE OCCUPIES PORTIONS—TERRITORY LOCATED IN ONE OF SUCH DISTRICTS ANNEXED TO VILLAGE—SECTION 3311.06 RC WILL NOT OPERATE TO TRANSFER ANNEXED TERRITORY FROM DISTRICT OF WHICH IT IS A PART TO ANY OTHER DISTRICT.

SYLLABUS:

Where a village occupies portions of two or more school districts, and territory located in one of such districts is annexed to the village the provisions of Section 3311.06, Revised Code, will not operate to transfer such annexed territory from the district of which it is a part, to any other district.

Columbus, Ohio, November 21, 1955

Hon. C. Watson Hover, Prosecuting Attorney
Hamilton County, Cincinnati, Ohio

Dear Sir:

I have before me your letter, requesting my opinion, and reading as follows:

“Village A annexed certain territory adjacent to it, said territory being a part of local school district B. Included within the corporate limits of Village A are portions of local school district B and city school district C, with the remaining and major portion being part of local school district D.

“The territory annexed is not contiguous to that of city school district C so it would not become a part of the latter school district under the provisions of 3311.06 R. C.

“The territory annexed is also not contiguous to that part of local school district B lying within the corporate limits of Village A.

“In view of the fact that Section 3311.06 R. C. makes no specific provision for a situation where a village which is part of more than one school district annexes territory, we request your opinion as to whether that part of local school district B annexed to village A remains in local school district B or whether it becomes a part of local school district D.”

Somewhat more simply stated, I understand the facts to be that village A, which occupies portions of three school districts, has the largest portion of its area in district D, and minor portions in districts B and C, respectively. District C is a city school district and districts B and D are local districts. A portion of the territory of district B other than that which is already within the corporate limits, has now been annexed to the village, and your question arises as to the disposition of that annexed portion for school purposes.

Your letter states that this annexed territory is not contiguous to district C, and also that it is not contiguous to that part of local district B which already lay within the corporate limits of village A.

It should be borne in mind that there is no such thing known to the law as a *village school district*, excepting "exempted village districts" formerly organized under Section 3311.08, and with which we are not here concerned.

Section 3311.03, Revised Code, defines a local school district as follows:

"Each school district other than a city school district, exempted village school district, county school district, joint high school district, or joint vocational school district, in existence on September 16, 1943, shall be known as a 'local school district'."

Accordingly, a village may be located in one or several school districts.

The effect of annexation of territory to a municipal corporation is set forth in Section 3311.06, Revised Code, which was amended by the 101st General Assembly. The first paragraph of that section both before and after its amendment, reads as follows:

"The territory included within the boundaries of a city, local, exempted village, or joint vocational school district shall be contiguous except where a natural island forms an integral part of the district."

The provision next following in the old law, read as follows:

"When territory is annexed to a city or village, such territory thereby becomes a part of the city school district or the school district of which the village is a part, and the legal title to school property in such territory for school purposes shall be vested in the board of education of the city school district or the school district of which the village is a part."

This was changed to the present reading :

“When territory is annexed to a city or village, such territory thereby becomes a part of the city school district or the school district of which the village is a part, and the legal title to school property in such territory for school purposes shall be vested in the board of education of the city school district or the school district of which the village is a part; provided, that *when the territory so annexed to a city or village comprises part but not all of the territory of a school district*, the said territory shall become a *part of the said city school district or the school district of which the village is a part only upon approval* by the state board of education.” (Emphasis added.)

On careful reading of the second paragraph of the statute above quoted, it appears that its first provision assumes the annexation of the entire territory of a school district, while the proviso relates to a case where only part of a district has been annexed; accordingly, whatever discretion is lodged with the state department of education, is limited to the latter situation. Even with that limitation, the section does not appear to afford an answer where, as in the present case, the village is not situated in *one*, but is rather a part of *several* districts. It does not appear that the legislature contemplated this situation when it spoke of “the district of which the village is a part.”

Manifestly the territory annexed cannot under any theory become a part of district C, as it is not contiguous to that district. The choice lies between B and D. The latter is stated to embrace the major portion of the area of the village. But that fact does not give it any preference as far as the law is concerned. The one significant, and in my opinion, the controlling fact is that the annexed territory is an integral part of district B, and I can find nothing in the facts presented or in the statute cited, either before or after its amendment which would afford any justification or authority to disturb its status.

The discretion lodged in the state board of education does not go to the extent of giving it any authority to make a choice. It can only approve or disapprove a transfer for which the law definitely provides.

There is one more fact stated, which may be noted, to wit, that the annexed territory, a portion of district B, is not contiguous to that portion of district B which is in the village. I cannot see that that fact in any

way alters my conclusion. Municipal boundaries as well as boundaries of school districts are frequently highly irregular and the situation in that respect which you describe would not appear to have any bearing on the problem.

It may be highly desirable that the territory in question should become a part of district D. If so, the only process by which that result could be accomplished would appear to be to resort to the provisions of Section 3311.23 et seq. of the Revised Code, which give county boards of education authority to make changes in the boundaries of local districts.

Accordingly, in answer to your inquiry, it is my opinion that where a village occupies portions of two or more school districts, and territory located in one of such districts is annexed to the village the provisions of Section 3311.06, Revised Code, will not operate to transfer such annexed territory from the district of which it is a part, to any other district.

Respectfully,

C. WILLIAM O'NEILL

Attorney General