

OFFICIAL OPINION NO. 51

November 30, 1955

Dr. J. William Wright, Jr., Chairman
Hearing Commission
Hume-Mansur Building
Indianapolis, Indiana

Dear Doctor Wright:

Your letter of October 26, 1955 has been received requesting an Official Opinion and reads as follows:

“The following is the background for our wishing an opinion from the Attorney General on interpreting Senate Bill 133, Chapter 166, p. 332, Acts of 1955.

“We are desirous of knowing whether it would be possible to interpret an oral training unit in terms of the number of teachers involved rather than the number of children involved. In other words, it was desired to know if it would be possible to tie the definition of a unit up with the regulations of ADA (average daily attendance).

“For example, speech and hearing therapists now employed in the public schools apparently work on an ADA. This permits them to see a great number of pupils for a short time. They are reimbursed apparently on the basis of a five hour school day, but it is not necessary for them to have the same pupils for the five hour period. This point is particularly important when we consider the three, four, and five year old pupils. None of these groups would profit from a full five hour school day. More likely, the three year olds would be seen for a half hour, the four year olds for an hour or an hour and a half, and the five year olds for possibly three hours. The total time spent with all three groups would constitute a full day for one teacher. It would therefore be possible to have groups of three year olds, four year olds, and five year olds, and only be reimbursing one teacher. If this situation could be termed a unit it would be more economical of the number of units available to the Commission under the bill as written. Since there is only a total of fifteen units

permitted throughout the State, we would like to avoid using one unit for each age group. Since this would involve no additional expense, we are hoping the interpretation can be made to define the unit in terms of the number of teachers involved per school day, rather than the number of children.

“Another point on which we would like clarification is as follows: Since the bill provides for establishment of classes covering children from age three to twenty, we would like to know whether this implies that it is possible for a school corporation to levy taxes for education under this bill for children from age three to six. It is our understanding at the present time that the school corporations cannot levy taxes for education of children under six.”

The Acts of 1955, Ch. 166, Sec. 1, as found in Burns' Indiana Statutes (1948 Repl., 1955 Supp.), Section 28-3534, contains certain definitions made by the Legislature as a part of said statute. Under clause (3) of said section of said statute an oral training unit is defined as follows:

“(3) An ‘oral training unit’ is any class established by an oral training center which unit shall consist of not less than six [6] nor more than ten [10] children.”

Under Sec. 4 of said Act, *supra*, as found in Burns' Indiana Statutes (1948 Repl., 1955 Supp.), Section 28-3537 there is provided, as follows:

“With the approval of the Indiana state board of education and the commission, any school corporation may provide an oral training center for the instruction and training of the hearing-handicapped children: Provided, however, That there shall not be more than five [5] such oral training centers in the state and not more than a total of fifteen [15] oral training units in the state of Indiana.”

Where the Legislature has defined the meaning of terms used in a statute, and such definition is clear and unambiguous, it is not subject to construction. The above quoted parts of said statute fall within such rule. Under the provisions of said

statute, there can only be fifteen [15] "oral training units" in the State of Indiana established under the provisions of said statute and each such unit shall not consist of less than six [6] nor more than ten [10] children.

While we have units for the purpose of school distribution of the state's support to the public school system, which are based upon average daily attendance, those are provided for in separate statutes which do not apply to the specific provisions of the statute above quoted. Therefore, it is not possible to interpret an oral training unit in terms of the number of teachers involved rather than the number of children involved.

On your second question, I am of the opinion that said statute clearly authorizes the school corporations' establishing and maintaining instructional facilities for the instruction of handicapped children, in conjunction with the state, to pay their respective portions of the cost of such a program in the manner detailed in said statute. I do not find any objection to the payment of these costs under the basic law as, by such provisions of the statute, it becomes a matter of school expense which could be budgeted and paid for under the general statutes relating to the assessment and collection of taxes in support of the public school system.

Although we generally think of the public school system as being grades one to twelve, this belief exists only because the Legislature has so provided. However, the legislative power is not limited to such a classification by the Indiana Constitution, Art. 8.

OFFICIAL OPINION NO. 52

December 1, 1955

Honorable Warren Buchanan, Chairman
Public Service Commission of Indiana
401 State House
Indianapolis 4, Indiana

Dear Mr. Buchanan:

In respect to motor vehicle carriers operating upon Indiana toll roads under the jurisdiction of the Indiana Toll Road