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the purpose of distribution for the second half of the school year in February.

From the foregoing and due to the reasons set forth in the above quotation from said Official Opinion, I am of the opinion that the words "the ensuing year" means the tax rate fixed in the budget of the local school corporation in August following the action of your Department and would constitute the tax rate then fixed for the next calendar year.

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OFFICIAL OPINION NO. 46

June 18, 1952.

Honorable Wilbur Young,  
State Superintendent of Public Instruction,  
State House,  
Indianapolis, Indiana.

Dear Sir:

Your letter of May 13, 1952 has been received and reads as follows:

"Referring to the Acts of the Indiana General Assembly 1951, Chapter 217, Section 2, Page 612, Appropriation for Vocational Rehabilitation, we desire the opinion of the Attorney General as follows:

"1. May a portion of the biennial State appropriation for Vocational Rehabilitation be used to pay salaries of the personnel of the division?"

Chapter 217 of the Acts of 1951 is the state General Appropriation Act. Under Section 2a, page 612 of said Act it is provided:

**"FOR VOCATIONAL  
REHABILITATION**  
Total Operating

Expense	210,000	210,000
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"In addition to the above appropriation, any federal funds received for the above purposes as a grant or allowance are hereby appropriated

for the uses and purposes for which such fund or money was paid to the State.”

Under the formula of said Act, the first figures refer to the appropriation for the year 1951-1952 and the second set of figures refers to the year 1952-1953.

Section 1 of said Act provides in part as follows:

“The term ‘operating expense’ as used in this Act shall be construed to include ‘personal service’ and all ‘other operating expense’.

“The term ‘personal service’, whenever used in this Act, shall be construed to include all payments made as and for salaries and wages to any and all officers and employees of the State, either regular or temporary, also all payments made as and for compensation awards, and special payments for expert services.

“The term ‘all other operating expense’, as used in this Act, shall include all payments made for ‘services other than personal’, ‘services by contract’ and ‘supplies, materials and parts’.”

The foregoing is the only definition concerning “operating expense.” Since the definition of “operating expense” includes both “personal service” and all “other operating expense,” I am of the opinion a portion of such biennial appropriation above referred to made for Vocational Rehabilitation could be used to pay salaries of the personnel of the Division of Vocational Rehabilitation, if the answer turned solely on a construction of the above statute. In this connection it is well to point out that said Division is a part of the State Department of Education and that on pages 605 and 606 of the above statute provision is separately made as to appropriation for personal services for various divisions of the State Department of Education including: State Superintendent of Public Instruction, State Board of Education, State Board of Education—Board of Attendance, State Board of Education—Teachers Training and Licensing, State Board of Education—Division of Special and Drivers Education and State Board of Education—National School Lunch. While these last referred to appropriations separately specify the amount appro-

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riated for personal services and the amount appropriated for all other operating expense, by their pattern they clearly show authority by the appropriation for vocational Rehabilitation, to make such money available for both personal services and other operating expenses of said Division.

However, an examination of other statutes seem to prohibit such payment. Under Title 29, U. S. C. A., Section 33, sub-section (4), being the Federal Statute authorizing payments to the various states who comply with the Federal Statute on Vocational Rehabilitation, it is provided:

“Expenditures in such period necessary for the proper and efficient administration of the plan, including necessary administrative costs in connection with providing the foregoing services to, and guidance and placement of, disabled individuals.”

This state has accepted the provisions and benefits of said Federal Act under the provisions of Section 28-4920, Burns' 1948 repl., same being Section 1, Ch. 204, Acts 1921, which reads as follows:

“The State of Indiana does hereby, through its general assembly, accept the provisions and benefits of the act of Congress, entitled ‘An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment,’ approved June 2, 1920, and will observe and comply with all requirements of such act.”

It has been held by this office that by the above acceptance statute this state is authorized to participate in such program under and in accordance with the provisions of the Federal Statute (1947 Ind. O. A. G. p. 347, Official Opinion No. 70).

Therefore, in construing the Indiana Appropriation Statutes in *pari materia* with the above statute, it would appear the intent of the Legislature was not to authorize payment of said salaries from such appropriation.

I am, therefore, of the opinion that since the acceptance of such program by Indiana must be in accordance with the Federal Statute, and since the Federal Statute provides for the United States paying for the salaries of personnel em-

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ployed by Indiana in such program, that the above appropriation by the Indiana legislature may not be used for the payment of such salaries.

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OFFICIAL OPINION NO. 47

June 19, 1952.

Honorable Herman C. Evans, Senator,  
815 So. Stull Street,  
Bloomington, Indiana.

Dear Sir:

Your letter of June 4, 1952 has been received and reads as follows:

"The following questions being herein submitted arise under Acts 1947, Chapter 123 as amended by Acts 1949, Chapter 268 and Acts of 1949, Chapter 227, of the Indiana General Assembly.

"Acts 1949, Chapter 268, Sec. 3, page 972 (Burns' Sec. 28-5903) makes provision for elections to be held on the question of consolidation under this Act, after the giving of legal notice as provided for therein:

- "1. Is it mandatory on the trustees who have been presented with the petition and resolution to give the legal notices as provided? If so, when must the legal notice be given with reference to the time said petition and resolution are properly presented to and received by the trustees?
- "2. Can the trustees who have been properly presented with the petition and resolution to consolidate under said Chapter 268, then *proceed* to consolidate under said Chapter 227?
- "3. Where all trustees of township schools in a County pass a resolution for consolidation under said Chapter 227, when does consolidation under said Chapter 227 actually take place? If before consolidation takes place under said Chapter 227, fifty legal voters