Therefore, except as above noted, it is my opinion that there is no specific statutory provision for the appropriation or payment of traveling expenses for township assessors.

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**PUBLIC INSTRUCTION: Schools — Exclusion of pupils.**

The school board or township trustee, and the school teacher or principal or superintendent, may suspend or exclude unless prevented by rule of school board or township trustee.

December 11, 1944.

*Opinion No. 104*

Hon. Clement T. Malan,
State Superintendent of
Public Instruction,
State House,
Indianapolis 4, Indiana.

Dear Dr. Malan:

Your letter of November 29, 1944, received, requesting an official opinion on the following question:

"Who has the legal right to exclude or suspend a pupil from the public schools of Indiana?"

Section 28-2410, Burns' 1933, same being Section 192, Chapter 192, Acts of 1899, as amended, provides in part as follows:

"The school trustees shall take charge of the educational affairs of their respective townships, towns and cities. They shall employ teachers, establish and locate conveniently a sufficient number of schools for the education of the children therein, and, build, or otherwise provide, suitable houses, furniture, apparatus and other articles and educational appliances necessary for the thorough organization and efficient management of said schools. * * * ."

In the case of the State ex rel. Andrew v. Webber, *et al.* (1886), 108 Ind. 31, the school superintendent suspended a pupil for refusing to follow the prescribed course of studies established by the school board. The school board refused to
revoke such suspension on demand of the parent. The court, in upholding such suspension, on page 39 of the opinion, said:

"* * * We are of opinion that only one answer can or ought to be given to this question; the arbitrary wishes of the relator (parent), in the premises, must yield and be subordinated to the governing authorities of the school city of Laporte, and their reasonable rules and regulations for the government of the pupils of its high school. * * *." (Parenthesis ours.)

Also see School City of East Chicago v. Sigler (1941), 219 Ind. 9, 13.

In 47 Am. Jur., "Schools", page 431, Section 180, the following statement is found:

"It is the duty of every principal or teacher in charge of a public school to maintain discipline and good order therein, and to require of all pupils a faithful performance of their duties. To enable such teacher or principal to discharge his duties effectually, he must necessarily have the power to enforce prompt obedience to his lawful commands. Hence, it follows that he must have the power to suspend or expel a pupil for any breach of reasonable discipline while at school, or for any misconduct injurious to the good government or morals of the other pupils, whether explicitly covered by adopted rules and regulations or not, although a teacher's action in depriving a pupil of the privileges of the school is generally subject to review by the trustees, board of education, or other governing body of the school district." (And cases cited.)

Also see 56 C. J., "Schools and School Districts," page 856, Section 1101.

Under the above authorities I am of the opinion the school teacher, the principal or superintendent of the school, unless prevented by a rule or regulation of the school board or township trustee, and the school board or township trustee for the school corporation, have the legal right to suspend or exclude a pupil from the public schools of Indiana, subject to the right of review of their actions in such cases. Specific questions regarding exclusion from school of physical handi-
capped children, and special laws authorizing health officers to exclude children from attending school in certain cases, are not intended to be covered in this opinion.

STATE BOARD OF TAX COMMISSIONERS: Intangibles Tax—Business situs of notes received from sales allocable to Indiana business location of foreign corporation which transmits such note to corporate domicile.

December 18, 1944.

Opinion No. 105

Hon. Charles H. Bedwell, Chairman
State Board of Tax Commissioners,
Room 231 State House,
Indianapolis 4, Indiana,

Dear Judge Bedwell:

This will acknowledge receipt of your letter dated November 22nd, 1944, which reads as follows:

"We would appreciate it if you would furnish us an official opinion concerning the taxability under the Intangibles Tax Laws of this State of the notes and trade acceptances of the W. B. Conkey Company.

"We are sending herewith and attaching hereto a brief filed by the taxpayer which states the facts concerning the business of the company and the only question involved is whether the W. B. Conkey Company has a business situs in the State of Indiana so that the intangibles which arise from its manufacturing business are subject to our intangibles tax."

Your letter refers to a brief filed by the taxpayer stating the facts in connection with the business of the W. B. Conkey Company. The facts as stated in this brief are as follows:

"The business of the taxpayer was established by Mr. W. B. Conkey in Chicago in 1877. He incorporated under the laws of Illinois in 1895. He continued operations there until he moved his plant to Hammond, Indiana in 1898 and the corporation was at that time