

1971 O. A. G.

OFFICIAL OPINION NO. 25

October 20, 1971

Hon. John F. Augsburger
Senator, State of Indiana
Box 74
Henry Street
Milford, Indiana 46542

Dear Senator Augsburger:

This is in response to your request for my Official Opinion requesting the proper construction of Acts of 1969, Ch. 247, Section 7, which is the formula for distribution of the state school appropriation balance of the foundation program.

ANALYSIS

Acts of 1969, Ch. 247, Section 7, as found in Burns' (1970 Repl.), Section 28-1006, (IC 1971, 21-3-1-7), provides, in part, as follows:

“* * * Provided, however, That in calendar year 1970, any school corporation which received a lesser total amount of money through the formula set forth in this act then it received in calendar 1969 through the formula for distribution of funds to schools for instructional salaries and other current expenses, as set forth in chapter 298, Acts 1967, shall be granted an additional amount of money so that the *total amount* received in calendar year 1970 is not less than the amount such corporation received in calendar year 1969. This provision shall apply only to funding for calendar year 1970.” (My emphasis)

The Act further provides at Section 3:

“* * * The adjustment for an insufficient appropriation or the adjustment for an excess in appropriation shall be a reduction or increase in the allowance per pupil for each corporation by a given number of dollars added to or subtracted from the allowance for general fund purposes.”

OPINION 25

It is claimed that funds remaining after distribution under the 1970 formula should have been used to equalize school corporations and afterward the excess funds in the foundation program equally distributed to school corporations. The excess funds remaining in the foundation program appropriation, however, were granted to all school corporations in the State of Indiana *after* distribution under the 1970 formula, but *prior* to equalization of school corporations.

At my request, Mr. Thomas H. Taylor, Budget Director for the State of Indiana, submitted a background memorandum from which I quote this pertinent section:

“* * * The Lakeland Community School Corporation did get a greater amount of state funds in 1970 than they received in 1969 and all that this provision required was that they get the same amount * * *”

Reading the Act as a whole, it is apparent that the provisions of Section 3 are a part of the formula for the computation of distribution, and monies received thereby from an increase in allowance under the regular formula due to excess appropriation would constitute part of the “total amount” received in the calendar year 1970 under the formula for distribution provided in said 1969 statute.

CONCLUSION

It is my opinion, therefore, that the method of computation for distribution made in the instant case was correct under the provisions of the Acts of 1969, Ch. 247. Further, I construe the Legislative intent with respect to the foundation program is that of assuring that each school corporation receives therefrom not less than the same amount received in the previous year, and that total distribution to school corporations should be equalized afterward.