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OFFICIAL OPINION NO. 14

April 29, 1963

Hon. William E. Wilson  
State Superintendent of Public Instruction  
227 State House  
Indianapolis 4, Indiana

Dear Mr. Wilson:

Your letter of April 8, 1963, has been received requesting an Official Opinion and reads as follows:

"I respectfully request an Official Opinion with reference to Chapter 393, Acts of 1963, on the following questions:

- "1. In the clause, 'Where a school reorganization has taken place', does this mean under Chapter 202, Acts of 1959?
- "2. In a county where one or more instances of reorganization under Chapter 202 has been completed but where one or more school units have not reorganized under Chapter 202, which corporation or corporations shall set the salaries of and pay for their appointive attendance officers?
- "3. In a county completely reorganized under Chapter 202 but having two or more community school corporations, who sets the salary and pays for the attendance officer or officers?"

The Acts of 1963, Ch. 393, contains a provision that the act shall be in effect from and after January 1, 1964. The pertinent part of the statute, as applied to your questions, is as follows:

"\* \* \* Where a school reorganization has taken place appointive attendance officers shall have their salaries fixed by the township trustees and/or boards of education of the corporations wherein they shall serve, with each corporation casting one vote and shall further receive actual expenses necessary to the proper performance of their duties, said salaries and

expenses to be paid by the treasurer of the school corporation employing such attendance officer as other school personnel are paid. Providing, however, that two or more township school corporations and/or other school corporations may enter into a voluntary mutual agreement for joint employment and payment and supervision, as per terms of such agreement, of an attendance officer who shall serve the two or more school townships and/or other school corporations. Where a school reorganization has not taken place appointive attendance officers, unless otherwise provided in this act, shall have their salaries fixed by the appointing board and shall further receive actual expenses necessary to the proper performance of their duties, said salaries and expenses to be paid by the county treasurer upon a warrant signed by the county auditor, and the county council shall appropriate, and the board of county commissioners shall allow, the funds necessary to make such payments \* \* \* ”

All except the last sentence of the above quotation is new matter inserted by the 1963 Legislature. The last sentence is merely a restatement of the law as it previously existed.

1. In answer to your first question, I am of the opinion the phrase, “Where a school reorganization has taken place,” refers to the reorganization under the Acts of 1959, Ch. 202, as amended. Both by title and reference, it is a “reorganization” statute. While any change of a school corporation, or merger of two or more corporations under other statutes may constitute a “reorganization,” I do not believe this to be the legislative intent, since such mergers under other statutes are generally referred to as consolidations or metropolitan districts.

2. In answer to your second question, which applies only where a part of the county is reorganized, I am of the opinion the last sentence of the amendatory statute above-quoted would be applicable and that the appointment of the attendance officers and the fixing of the salaries would be the same as if they had been made prior to the 1963 amendment, that is, if the reorganized school corporation is large enough to

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qualify for a city classification with more than 1500 children in average daily attendance, such reorganized school corporation, even though it constitutes only a partial reorganization of the county, is still a city school corporation (Acts 1963, Ch. 390, Sec. 1) and the appointment would be made the same as had been previously made under Acts 1921, Ch. 132, Sec. 1, as amended, as found in Burns' (1948 Repl.), Section 28-501. The city school corporation would appoint and fix the salary to be paid by the county. At the same time we would then have the remaining part of the county which has not been reorganized. An attendance officer would be appointed for this part of the county by the county board of education, which would fix the salary to be paid for by the county, under the provisions of the above amendatory statute and the provisions of Burns' 28-501, *supra*. Should another city school corporation exist in the part of the county which has not been reorganized, the appointment of its attendance officer and the fixing of the salary would be the same as heretofore provided in Burns' 28-501, *supra*, with the salary to be paid for by the county. The foregoing conclusions are based upon the construction that reorganization as used in this amendatory statute refers to a complete reorganization of county before certain features of the amendatory statute become applicable.

3. If the entire county is reorganized, under Ch. 202 of the Acts of 1959, as amended, into two or more community school corporations, then they would come under the provision of the new language in the above-quoted part of the statute, and each school corporation would appoint and fix the salaries of their attendance officers and pay for the same except two or more such school corporations may enter into a voluntary mutual agreement for such joint employment, payment and supervision of the attendance officers to serve their respective school corporations.