

February 4, 2022

The Honorable Gary D. Bishop
Richland County Prosecuting Attorney
38 South Park Street, 2nd Floor
Mansfield, Ohio 44902

SYLLABUS:

2022-002

When an educational service center or joint educational service center contains a local school district that has part of its territory cross into another county, the territory of the local school district lying in another county is part of the territory of the educational service center.



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OPINION NO. 2022-002

The Honorable Gary D. Bishop
Richland County Prosecuting Attorney
38 South Park Street, 2nd Floor
Mansfield, Ohio 44902

Dear Prosecutor Bishop:

You have requested an opinion regarding the territory of an educational service center (“ESC”) or a joint ESC. I have framed your question as follows:

If the territory of an ESC or joint ESC contains a school district that has territory in more than one county, does the territory of the ESC or joint ESC also cross county lines to match that of the local school district?

For the reasons that follow, I find that the answer is “yes.” When an ESC or a joint ESC contains a local school district that has part of its territory cross county lines into another county, the portion lying in the other county remains part of the territory of the ESC or joint ESC.

I

For background, an ESC is part of the educational regional service system. *See* R.C. 3312.01(B)(3). “The system shall support state and regional education initiatives and efforts to improve school effectiveness and student achievement.” R.C. 3312.01(A). “Educational service centers shall provide the services that they are specifically required to provide by the Revised Code and may enter into agreements pursuant to section 3313.843, 3313.844, or 3313.845 of the Revised Code for the provision of other services” that relate to the betterment of the served schools. R.C. 3312.01(C); *see* 2017 Op. Att’y Gen. No. 2017-023, Slip Op. at 3; 2-238; *see also* 2005 Op. Att’y Gen. No. 2005-033, at 2-345 n. 1 (“The educational service center provides services and support of various types for the local school districts that it serves, and may provide services to other school districts by agreement”). The territory of an ESC is changeable, and all or part of the territory of one or more local school districts belonging to one ESC may be transferred to an adjoining ESC. *See* R.C. 3311.231.

A joint ESC is formed by the combining of up to five adjoining ESCs that, by adopting resolutions, come together to form one joint ESC. *See* R.C. 3311.053(A). The makeup of joint ESCs means that school districts with territory in multiple counties are generally involved. *See* 2014 Op. Att’y Gen. No. 2014-012, Slip Op. at 2; 2-95 (“Educational service centers also may combine to include several counties”); *see also* R.C. 3311.054(B)(2) (specifying that the subdistricts that make up a joint ESC shall be as nearly equal in

population as possible, and “[t]o the extent possible, each subdistrict shall be composed only of territory located in one county”).

II

R.C. 3311.05 defines the territory of an ESC. R.C. 3311.05(A) states in part:

The territory within the territorial limits of a county, or the territory included in a district formed under section 3311.053 of the Revised Code, exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes constitutes an educational service center.

R.C. 3311.053, referenced in R.C. 3311.05(A), is the statute that authorizes joint ESCs. R.C. 3311.05, therefore, pertains to the territory of both ESCs and joint ESCs.

Your concern is whether the territory of an ESC or joint ESC is limited by county lines. “It is a well-established rule of statutory construction that a statute and its various parts must be construed as a whole.” *E.g.*, 2003 Op. Att’y Gen. No. 2003-018, at 2-141. Following this canon, the language “[t]he territory within the territorial limits of a county” found in R.C. 3311.05(A) must be read in connection with the other language of the

statute. The remaining language of R.C. 3311.05(A) at issue here states that the territory of an ESC “exclude[es] the territory detached therefrom for school purposes and include[s] the territory attached thereto for school purposes.” Thus, when read together, the territory of an ESC is the territory within the territorial limits of the county and the territory attached to the ESC for school purposes. What constitutes ‘attached’ must be examined next.

A

Your request notes that 2017 Op. Att’y Gen. No. 2017-023 examined R.C.3311.05(A) and found that the territory of an ESC is not altered when an ESC enters into an agreement under R.C. 3313.843 to provide services to a city or exempted village school district. 2017 Op. Att’y Gen. No. 2017-023, Slip Op. at 5; 2-240. Relevant here, the 2017 opinion analyzed the terms “attached” and “detached” as used in R.C. 3311.05(A). *Id.* Neither of the terms was defined for purposes of R.C. 3311.05(A). Thus, the 2017 opinion, in accordance with R.C. 1.42, looked to the ordinary meaning of “attached” and “detached.” *Id.* Looking to the dictionary, the opinion found that “[t]he ordinary meaning of ‘attach’ is ‘to make...part of, join.’” *Id.*, quoting *Webster’s New World College Dictionary* 91 (5th Ed.2014). For “detached,” the opinion found that “[t]he ordinary meaning of ‘detach’ is ‘to unfasten or separate and remove; disconnect; disengage.’” *Id.*, quoting *Webster’s New World College Dictionary* 401 (5th Ed.2014).

It follows that the territory of a local school district that crosses into another county is “attached” to the ESC or

joint ESC serving the local school district. The reason is that the territory crossing into another county is “attached” to the ESC or joint ESC for school purposes. Specifically, those who reside in the portion of the local school district lying in another county still reside within the territory of the local school district, and the ESC or joint ESC provides services to that local school district. *See* 2018 Op. Att’y Gen. No. 2018-013, Slip Op at 8; 2-123 (“Essentially, an educational service center comprises the territory of local school districts”). Absent a showing to the contrary, there is no reason to presume that the portion of the served local school district lying in another county was “detached therefrom for school purposes.” *See* R.C. 3311.231 (dealing with the transferring of part or all of one or more local school districts to another ESC).

For the reasons stated, a reading of R.C. 3311.05(A), as a whole, indicates that a portion of a local school district lying in another county is “attached” to the ESC or joint ESC serving the local school district.

B

Additional support for the determination that the territory of a local school district that crosses county lines is part of the territory of the ESC or joint ESC comes from an examination of related Revised Code sections.

Looking to the formation of a new local school district from one or more local school districts or parts thereof, R.C. 3311.26 provides that people entitled to vote on the proposal are the electors residing in the new proposed districts. “When the new district consists of

territory lying in *two or more counties*, the state board shall determine *to which educational service center the new district shall be assigned.*” R.C. 3311.26 (Emphasis added); see 2017 Op. Att’y Gen. No. 2017-023, at Slip Op. 7; 2-242. Although the new district consists of territory located in two or more counties, the statute allows the new district to be assigned to a single ESC. In such a case, “the territory of the new local school district is attached for school purposes to the county of the newly assigned educational service center.” 2017 Op. Att’y Gen. No. 2017-023, at Slip Op. 7; 2-242; see R.C. 3311.37. Thus, this arrangement results in an ESC having territory outside the county in which it sits.

R.C. 3311.231 deals with the transfer of all or part of one or more local school districts within the territory of an ESC to an adjoining ESC or to an adjoining city or exempt village school district. The section states that the electors who may vote on a proposal to transfer are persons residing in the district or districts containing territory that is proposed to be transferred. *Id.* “Where a governing board of an educational service center adopts a resolution accepting territory transferred to the educational service center under the provisions of sections 3311.231 and 3311.24 of the Revised Code, the governing board shall, at the time of the adoption of the resolution accepting the territory, *designate the school district to which the accepted territory shall be annexed.*” *Id.* (Emphasis added). Upon the acceptance of the territory, the ESC offering the territory shall file accurate maps with the auditors of the affected counties and with the state board of education that show the boundaries of the transferred territory. *Id.* “Accordingly, the territory, when annexed to another

school district in a county in which the territory did not lie originally, is attached to the new county, and detached from the first county, for school purposes.” 2017 Op. Att’y Gen. No. 2017-023, Slip Op. at 7; 2-242. Thus, an ESC may be given territory that does not sit within its county.

In sum, when read together, these Revised Code sections support the conclusion that an ESC’s or joint ESC’s territory encompasses the territory of every school district it serves, even if the school district’s territory crosses into another county.

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

When an educational service center or joint educational service center contains a local school district that has part of its territory cross into another county, the territory of the local school district lying in another county is part of the territory of the educational service center.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D" and a long, sweeping tail on the "y".

DAVE YOST
Ohio Attorney General