

SC JOL DISTRICTS:-Laws of Missouri 1931, page 334, Sec. 18, does not
TUITION: permit student to select school which he shall
attend; board of district may select school unless
the county superintendent shall assign student
under Section 18.

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November 10, 1933.

Mr. W. W. Crockett,
Prosecuting Attorney,
New London, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you
enclose a letter to you from the Ocean Wave School Board. Your
inquiry is as follows:

"I am enclosing letter to me that explains itself.
Ocean Wave District is in Ralls County. Tilden Dis-
trict includes part of Ralls County and adjacent
territory in Marion County, the school building being
located in Oakwood, just over the county line in
Marion County. The Hannibal District is immediately
north and the Ocean Wave District immediately south
of the Tilden District. Oakwood is partly in both
counties. Tilden needs the attendance of these
pupils while Hannibal does not. Several pupils from
Ocean Wave District are attending Tilden but one
family, who has been sending their two pupils to
Hannibal, because of a tax receipt of some kind with-
out paying any tuition, now want to send there at
the expense of Ocean Wave District when said district
has made arrangements with Tilden, the nearest dis-
trict, to take the pupils at the price the State pays.

Under the law the school board has the management of
the school property and the running of the school
matters. The question is: Can the board say what
district they shall attend, the district with which
the arrangements being made being more accessible and
nearer than other districts?

If the pupil could attend a district two districts
away, in an adjoining county, could the pupil attend
a school five districts away, in an adjoining county?
The law, as I see it, does not distinguish between
them but in reason the school board of the district
paying out the money of the district ought to be per-
mitted to say something about the spending of such
money provided they can get the same service and the
district so attended is equally accessible and as
convenient as other districts.*

You state that the Ocean Wave District is in Ralls County; that the Tilden District includes part of Ralls County and adjacent territory in Marion County, and its school building is located in Marion County. The school is immediately north of Tilden District. You inquire in which district the resident students of the Ocean Wave District may be sent for the purpose of acquiring the higher grades of instruction.

Section 18, Laws of Missouri 1931, pages 334-347, provides as follows:

"Whenever any pupil is so located that an adjoining school is more accessible, the county superintendent shall have the power and it shall be his duty to assign such pupil to such adjoining district: Provided, if a school district shall be divided by a county line, or it is deemed advisable to assign pupils to a district in an adjoining county, then the county superintendent of the county wherein the pupil resides shall make the assignment, subject to an appeal to the state superintendent of schools by any county superintendent whose county is affected, and the decision of the state superintendent shall be final: Provided, the attendance of such assigned pupil shall be credited for the purpose of apportionment of state funds to the district in which the student lives, and the board of directors of the district in which said student lives shall pay the tuition of such pupil or pupils so assigned: Provided, such tuition shall not exceed the pro rata cost of instruction."

Under the above Section where a pupil is so located that an adjoining school is more accessible, the county superintendent shall assign such pupil to such adjoining district. It further provides that after it is deemed advisable to assign a pupil to a district in an adjoining county the county superintendent of the county wherein the pupil resides shall make the assignment, subject to an appeal to the state superintendent of schools by any county superintendent whose county is affected. Under the statute it is apparent the pupil is to attend the most accessible school, and the selection of the school is either to be made by the school board of the district or the superintendent as the case may be. We find no provision in the statute that gives to the student the right to select the school which he shall attend at the expense of the state and district.

In as much as your board has already arranged with the Tilden High School for the education of your resident pupils, we believe that the students may be sent there, to the exclusion of other districts, unless the county superintendent should assign the pupils to a different district. If the superintendent should assign the pupils to a different district, then, of course, your district would be bound to pay your proportion of the tuition.

November 10, 1933.

It is therefore the opinion of this Department that the law does not give to the pupil the right to select the school which he shall attend at the expense of the district and state, and that if he does so select the school, the district is not compelled to pay his tuition; that the district may select the district to which the students shall be sent unless the county superintendent of schools, under Section 18 above, should assign the students to another district.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.

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