

School District must enumerate orphans and defective children in the district same as others to obtain state funds.

Ac 9907-1712  
Ac 13 P 340 March 21

June 1, 1933.

FILED  
4

Rev. Dr. F.M. Baker,  
Pastor Fee Fee Baptist Church,  
Pattonville, Missouri.

Dear Dr. Baker:

Your letter of April 28 was received in due time, but on account of general press of business, have been unable to answer until the present time.

You have indeed quite a responsibility in the matter of being in charge of such an important class of people as you have under you and I know that the State (and I personally) will do all that possibly can be done under the law to aid you in your very commendable work of helping these orphan boys and girls get an education.

You state in your letter that you think the state owes them their education in the public schools the same as it owes it to other children of the state, and continuing, you say you think it manifestly unfair that the burden of their education should fall upon the Pattonville district alone because the "Home" happens to be located in it. In reply will say Section 9212 R.S. of Mo. 1929 says:

"The board of directors of each district shall be between the 30th day of April and the 15th day of May each year take or cause to be taken and forwarded to the County Clerk an enumeration of the names of all persons over six and under twenty years of age RESIDENT within the district, designating male and female, white and colored and age of each, \*\*\*\*; and also an enumeration of all blind and deaf and dumb persons of school age resident within the district \*\*\*\* and should the board neglect or refuse to comply with the provisions of this section, such district shall forfeit its right to any portion of the public funds for the next ensuing school year \*\*\*\*."

167.011  
167.021  
Submitted Prior to

→ 167.151  
167.161  
171.011

Section 9207 R.S. of Mo. 1929 provides:

IF between 6 and 20 and can't pay tuition

\*\*\*\*\* That the following children, if they be unable to pay tuition, shall have the privilege of attending school in any district in the state in which they may have a permanent or temporary home; first, orphan children; second, children bound as apprentices; third, children with only one parent living; and fourth, CHILDREN WHOSE PARENTS DO NOT CONTRIBUTE TO THEIR SUPPORT. \*\*\*\*\*

From the foregoing it will be seen that it is the duty of the board of directors every year to enumerate and make a list of all persons over six and under twenty years of age RESIDENT in the district, and makes a penalty on the district to the extent of FORFEITING THE RIGHT TO ANY PORTION OF THE PUBLIC FUNDS if they fail to do so. Section 9207 also emphatically requires that these orphans, apprenticed, or one parent child, or children without parental support shall be listed in the district in which they have a permanent or temporary home regardless from what part of the state they came from.

Our Supreme Court in State ex rel Logan v. School District, 257S.W. 327, 1.c. 828, has said:

"Whether a child should be enumerated depends upon his 'residence' in the district as distinguished from 'domicile' (under Sec. 9212) \*\*\*\*\* 'Domicile' and 'residence' are frequently used synonymously, but technically the latter word indicates merely the present place of abode of a person WHETHER TEMPORARY OR PERMANENT."

Under Sec. 9212 R.S. of Mo. 1929 and the foregoing decision, as well as under Sec. 9207. these orphan children are residents and must be enumerated by the clerk and school board and have all the privileges of attending the public school in the school district the same as any other child therein. Neither the district clerk nor directors have any right to prevent their attending school there.

I might add parenthetically that your "Home" having helped build the school house by "a liberal contribution towards the building that it might be large enough to accommodate the children of the 'Home'", they will gladly, on second thought, cooperate with you in the matter.

I appreciate your fine feeling that "it is manifestly unfair to expect that the burden of their education fall upon the Pattonville district alone because the 'Home' happens to be located in it." It is hoped you can work together with the school board in harmony, as the state, from the laws above quoted, shows plainly that it wishes to cooperate and will help take care of these orphans in the matter of their education.

I will say further that Sec. 13, page 340<sup>341</sup>, Session Acts of 1931 says:

"All school funds to be apportioned by virtue of the provisions of this act shall be apportioned in pro rata proportion, paying such percentage of each and every one of these apportionments as the money available in the public school fund will permit."

This indicates how the apportionment will be made and then, pay in proportion to the amount that is available out of state funds. In other words, these orphan children are especially favored by the state funds, first - "the attendance of all orphans (Secs. 9207 and 9212) and defectives (under Sec. 9218) is counted in calculating the regular equalization quota or teacher and attendance quotas; and second, then a separate apportionment for orphan and defective children calculated for these pupils in addition to the regular apportionment." ONE CAN CLEARLY SEE THIS CONSTITUTES A DOUBLE APPORTIONMENT TO THE PATTONVILLE DISTRICT on account of the orphans in that district, there being 208 orphans out of 418 pupils who get this double benefit.

The double apportionment is the ruling of the State Superintendent of Schools and properly so. Therefore, having in the school district these orphan children brings in double the amount of state funds that other children get from the state and that ought to materially soften or cut down any feeling of opposition or disinclination of the local people or school directors against these unfortunates attending the local schools, and I believe they will look at it that way too, if the above laws and facts are impressed upon or called to their attention.

I might add further that during this last year your district received \$1993.50 in round numbers state aid instead of \$1500 as you thought. The apportionment or estimate was \$4400 instead of \$4800 and last year was an exceedingly hard, unusual year, the tax collection throughout the state, including the state school funds, being probably the lowest in a number of years, but "times" may, and I hope will, improve, thereby saving cuts in teachers' salaries.

Hoping that the foregoing will be of assistance to you in ameliorating and simplifying the situation you are confronted with, and wishing to assure you and the Pattonville School District that anything I can do in the matter will be gladly done, I am

Respectfully yours,

*George B. Strother*

GEORGE B. STROTHER,  
Assistant Attorney General

APPROVED:

\_\_\_\_\_  
Attorney General