

SCHOOLS; Under Section 9217, R. S. Mo. 1929, school dis-  
SCHOOL DISTRICTS: tricts must accept colored students and then  
collect the tuition quarterly from the school  
district sending them.

12-11  
November 26, 1933.



Mr. Homer Rinehart,  
Prosecuting Attorney,  
West Plains, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which  
you inquire as follows:

"Under Section 9217 of the R. S. 1929 when a  
number of colored children enumerated in a  
school district is less than eight, they have  
the privilege and are entitled to attend school  
in the nearest district in the county wherein  
a school is maintained for colored children,  
and transportation and tuition charges shall  
be paid by said district in which the colored  
children live.

Has a school district, which maintains a school  
for colored children, the right and authority  
to stop said colored children, who live in  
another district and who have no colored school  
in their district, from attending school when  
the School Board of the district in which the  
colored children live refuse to pay the tuition?  
Or, is it mandatory that said school district  
receive said colored children and take legal  
action to force the collection of their tuition  
from the other district?"

Section 9217, R. S. Mo. 1929, among other things, pro-  
vides as follows:

"When there are within any district in this  
state eight or more colored children of school  
age, as shown by the last enumeration, the  
board of directors of such school district shall  
be and they are hereby authorized and required  
to establish and maintain within such school  
district a separate free school for said colored  
children or in lieu thereof shall pay the trans-  
portation charges to any district in the county  
wherein a school is maintained for colored chil-  
dren. Provided if the number of colored children  
enumerated is less than eight they shall have the

privilege and are entitled to attend school in the nearest district in the county wherein a school is maintained for colored children and the transportation and tuition charged incurred shall be paid; said transportation shall not exceed five dollars per month and tuition charges shall not exceed the pro rata cost of instruction. The amount due the school district which the colored children attend shall be paid quarterly upon receipt of an account from the district wherein the colored children attend showing the amount due for said colored children. Provided further that the said school board in making the estimate for the ensuing year shall take into consideration the expenses for carrying out the provisions of this section. \* \* \* Provided further, that should any board of directors neglect or refuse to comply with the provisions of this section, such school district shall be deprived of any part of the public school funds so long as the provisions of this section are not complied with."

It appears from your inquiry that there are less than eight colored children in the district and that they are being sent to your district. You inquire whether or not you have a right to refuse admittance of these children without the tuition fees being paid, or whether you should first admit them and then collect the tuition from the district wherein they reside.

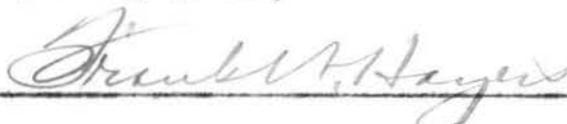
The foregoing section gives to the colored children, where there are less than eight enumerated in the district, the privilege of attending school in the nearest district in the county wherein a colored school is maintained, and the transportation and tuition so incurred shall be paid by the district wherein they reside. The statute expressly provides that "The amount due the school district which the colored children attend shall be paid quarterly upon receipt of an account from the district wherein the colored children attend showing the amount due for said colored children." It appears from the foregoing sentence that it was the intention of the Legislature that the children should be admitted without any tender of tuition from the district, or without the tuition being paid in advance. Said sentence provides that the amount due the school district shall be paid quarterly upon a receipt from the district where the children attend school. That indicates that the children are to be admitted without any tender or payment of tuition, and at the end of each quarter the district wherein the children attend school shall render an account to the district sending the children for the tuition due. The school district then is required to pay the tuition due.

If the school district refuses to pay the tuition

due upon the rendering of the quarterly account, as provided in the statute, then you will have to bring an action against them to collect it. However, you might also call their attention to the proviso in the latter part of said Section which provides that should the Board of Directors refuse to comply with Section 9217, that such school district shall be deprived of any part of the public school funds so long as they refuse to comply with said Section.

It is therefore the opinion of this Department that where there are less than eight colored children enumerated in a district, that those children are entitled to attend school in the nearest district in the county where a colored school is maintained, and that the district where they attend is not entitled to refuse admittance to them because the tuition is not paid in advance; that at the end of each quarter the district where they attend school shall render an account to the district which sends the students, and then the school district sending the children should pay such tuition. As we construe the above section the district must accept these students and then collect the tuition from the district sending them.

Very truly yours,



Assistant Attorney General.

APPROVED:

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Attorney General.

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