

SCHOOLS: District where non-resident pupils reside must pay tuition of pupils.

8-13  
August 9, 1934.



Hon. Albert D. Hewitt  
Prosecuting Attorney  
DeKalb County  
Maysville, Missouri

Dear Mr. Hewitt:

This is to acknowledge your letter as follows:

"The Clarksdale High School here in De Kalb County have had some non-resident pupils coming in to their school from the Thornton School, which is a rural school and have never been able to collect for tuition from this school district, and are now threatening to sue the rural school for the tuition for these non-resident pupils, and have called on me, that is the High School Directors concerning this action.

"It seems as though that under the 1933 laws, at page 393, Section 16, that the high school might have this right. However, there has been some dispute about their right of action.

"Thanking you for your opinion in the matter, I am,"

Laws of 1933, page 393, Sec. 16, in part provides as follows:

"The board of directors of each and every school district in this state that does not maintain an approved high school offering work

through the twelfth grade shall pay the tuition of each and every pupil resident therein \*\*\*\*\*."

In a recent case before the Supreme Court of Missouri En Banc, in case of State of Missouri ex rel. Mildred Burnett v. School District of the City of Jefferson (not yet officially reported), the court in passing upon that section said:

"Now, although section 16 contains no express provision that a non-resident pupil shall not be required to pay tuition, it does provide a complete and apparently exclusive scheme for its payment. First, it unequivocally requires the district of residence to (*italics ours*) "pay the tuition of each and every pupil resident therein who has completed \*\*\*\*\*."

And further,

"It is now conceded by all parties hereto that the provision in section 16 for payment by the state of \$50.00 tuition per non-resident attending pupil is in reality state aid to the sending district and not to the receiving district. \*\*\*\*\* "

From the above and foregoing, it is our opinion that the district where the non-resident pupil resides is liable to the school of attendance for the tuition of such non-resident pupil.

Yours very truly,

APPROVED:

JAMES L. HORNOSTEL  
Assistant Attorney-General.

ROY MCKITTRICK  
Attorney-General.

JLH/afj