

SCHOOLS: A grade school pupil must attend "strict in which he lives with certain exceptions.

6-18  
June 17, 1935.



Mr. Frank J. Iffrig  
Member, House of Representatives  
St. Charles County  
St. Peters, Missouri

Dear Sir:

This will acknowledge receipt of your letter requesting an opinion from this office which reads as follows:

"I would very much appreciate your opinion on the following in regard to the school law. Can the department of education give state aid to a grade school district for paying tuition of pupils living in another district?

"If this can be done in case the pupil lives nearer to a school in a district than the one, in which the student lives, can money be paid out of the state school fund for a pupil who lives nearer or has to pass the school in his or her own district and wants to attend a school in another school district?

"What I would like to know is if a school district has to accept pupils from other school district free of charge or whether the other district in which the pupil lives has to pay a tuition or if the state will pay this tuition regardless of how much nearer this pupil lives to the school in his or her own school district."

Section 9207, R. S. Mo. 1929, gives the board of a school district the right to make rules and regulations in regard to the admission of non-resident pupils and prescribe the tuition fee to be paid by same. Said section reads in part:

\*\*\*\* They shall have the power \*\*, and may admit pupils not residents within the district, and prescribe the tuition fee to be paid by the same: Provided, that the following children, if they be unable to pay tuition, shall have the privilege of attending school in any district in this 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: Provided, further, that any person paying a school tax in any other district than that in which he resides shall be entitled to send his or her children to school in the district in which such tax is paid and receive credit on the amount charged for tuition to the extent of such school tax."

Section 13, page 340, Laws of Missouri, 1931, requires the board of directors of each and every school district in this state to maintain the public school or schools of such district for a period of at least eight months in each school year, and it provides that when any district has legally levied for school purposes a tax of not less than twenty cents on each one hundred dollars of the assessed valuation of the property therein, such district shall be allotted out of public school funds of the State an equalization quota in order that such districts may have the funds necessary to maintain the school or schools thereof for such minimum term.

In view of the above sections, it is clear the Legislature intended that a pupil, unless he comes within one of the exceptions enumerated in Section 9207, supra, should attend the district in which he lives unless he is admitted to another district according to their rules and regulations and pays the prescribed tuition fee. The only exceptions to the above rule permitting a grade school pupil to attend

school in a district other than the one in which he lives at the expense of the district in which said student lives or providing any state aid therefor, are Sections 18 and 20, Laws of Missouri, 1931, pages 344 and 346 respectively.

Section 20 is only applicable to districts having an average daily attendance of less than fifteen. Said section provides that the State Superintendent of Schools, if he deems it to the best interest of all concerned, shall, in lieu of such State aid, require the board to provide for the transportation of pupils to other public schools provided that the total expense including transportation and tuition paid by the State shall not exceed the amount the State would have otherwise paid to such district.

Section 18 gives the county superintendent of schools the power and makes it his duty to assign pupils living in one district to an adjoining district when an adjoining school is more accessible for said pupil. Said section reads 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 the state superintendent by any county superintendent whose county is affected, and the decisions 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."

The above section gives the county superintendent of schools the power and makes it his duty, when a pupil is so

located that an adjoining school is more accessible, to assign such pupil to such adjoining district. The county superintendent is not given the power to assign a pupil to any district other than an adjoining district and then only when the adjoining school is more accessible to the pupil. Said section plainly requires that the board of directors of the district in which said pupil lives shall pay the tuition of the pupil so assigned. The section provides, however, that 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.

CONCLUSION.

In view of the above, it is the opinion of this department that a grade school pupil must attend school in the district in which he lives unless he is admitted to another district according to such district's rules and regulations, in which event he must pay the prescribed tuition fee unless he comes within one of the exceptions specified in Section 9207, supra; or unless said pupil lives in a district having an average daily attendance of less than fifteen pupils, and the State superintendent of schools has required the board to transport said pupils to another school or schools, in which event the expense paid by the State shall not exceed the amount that the State would have otherwise paid to such district; or unless the pupil is so located that an adjoining school is more accessible and the county superintendent of schools has assigned such pupil to such adjoining district, in which event the board of directors of the district in which the pupil lives shall pay the tuition of the pupil so assigned. The attendance of such assigned pupil, however, shall be credited for the purpose of apportionment of state funds to the district in which the pupil lives.

Yours very truly,

J. E. TAYLOR  
Assistant Attorney-General.

APPROVED:

JOHN W. HOFFMAN, Jr.  
(Acting) Attorney-General.

JET/afj