

SCHOOLS: State Superintendent of Schools has power to deny state aid to district when he requires transportation of pupils under Section 20, Laws of Mo., 1931.

5-7

May 6, 1935.



Hon. Lloyd W. King  
State Superintendent  
Department of Public Schools  
Jefferson City, Missouri

Attention: Mr. Geo. B. John,  
School Finance Division

Dear Sir:

This is to acknowledge your letter dated May 2, 1935, as follows:

"Please advise this department concerning the state school moneys apportionment relative to rural districts with less than 15 pupils in average daily attendance. I refer you to the provisions of Section 20, Page 346, Laws of Missouri, 1931.

Has the State Superintendent of Schools authority to deny state aid to any school district with an average daily attendance of less than fifteen pupils when it refuses to transport its pupils to another school when required to do so by the State Superintendent after he has investigated the conditions of the district and has found it to the best interest of all concerned to transport?"

The statute referred to in your letter, namely, Section 20, Laws of Missouri, 1931, page 346, reads as follows:

"If any district in this state shall

"have an average daily attendance of less than 15 pupils as shown by the records of the last previous school year, the state superintendent shall, in lieu of such state aid, after investigation that convinces him that it would be to the best interests of all concerned, require the board to provide for the transportation of the pupils of such district to other public school or schools, provided that the total expense, including transportation and tuition paid by the state, shall not exceed the amount that the state would have otherwise paid to such district."

Section 21, Laws of Missouri, 1931, page 346, reads as follows:

"All laws and/or parts of laws relating to state aid for schools and apportionment of state funds for the maintenance thereof inconsistent with, or in conflict with, the provisions of this act are hereby declared to be repealed and of no further force and/or effect."

Section 20, supra, provides that if the average daily attendance in any district is less than fifteen pupils the State Superintendent of Schools shall require the board to provide for the transportation of the pupils of such district to other public school or schools. However, before the State Superintendent of Schools can require the board to provide the transportation of the pupils, he must first conduct an investigation that convinces him that it is to the best interest that the pupils be transported. When the State Superintendent requires the transportation of pupils, after investigation, the school does not receive state aid, but

May 6, 1935.

"that the total expense, including transportation and tuition paid by the state, shall not exceed the amount that the state would have otherwise paid to such district."

In view of the foregoing statute it is our opinion that if the State Superintendent of Schools requires a district to transport its pupils as contemplated by Section 20, supra, and the board will not comply with his demand, then he has the authority to deny such district state aid. The State Superintendent could by mandamus action compel a school board to comply with his wishes in transporting of pupils required by Section 20, supra. However, we do not believe it would be necessary for the State Superintendent to resort to court action, as the statute says, "the State Superintendent shall, in lieu of such state aid \* \* \* require the board to provide for the transportation of the pupils", and by denying a district state aid for failure to transport the pupils, would be a means of compelling compliance with his demand.

Yours very truly,

James L. HornBostel  
Assistant Attorney-General

APPROVED:

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ROY MCKITTRICK  
Attorney-General

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