

SCHOOLS: Only resident pupils may be counted in determining teaching units for state apportionment of funds.

September 10, 1940



Hon. Emory C. Medlin  
Prosecuting Attorney  
Barry County  
Cassville, Missouri

Dear Sir:

We are in receipt of your request for an opinion dated August 24, 1940, together with your explanatory letter of September 7, in which you inquire whether non-resident students in daily attendance in grades under the ninth grade may be counted in determining teaching units.

Resident students are required by law to attend the schools in the district of residence, with certain exceptions. One of the exceptions is found in Laws of Missouri, 1931, at page 344, and this provides that when an adjoining school is more accessible to a student the county superintendent may assign such student to the adjoining district. In this section is also included the following:

"\* \* \* 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: \* \* \* "

Again, in the Laws of Missouri, 1935, page 351, under Section 16, in an act providing that pupils resident in a district which did not maintain a high school may be assigned to a district having a high school, on payment of the proper tuition, we find the following exception to the intent of the legislature with regard to the enumeration of such pupils in determining the teaching units:

"\* \* \* but the attendance of such pupils shall not be counted in determining the teaching units of the school attended; \* \*"

In Laws of Missouri, 1931, at page 343, we find the following:

"Sec. 15. District may combine for school purposes.-- Two or more districts may combine temporarily for educational purposes should the school boards of all districts concerned agree to transport the pupils of one or more districts to a schoolhouse elsewhere, and such districts shall receive the same apportionment from the state school fund as they would otherwise have received, and may use such funds, or any part thereof, in transporting pupils: Provided further, that in such temporary combinations the record of daily attendance of pupils from each district shall be kept separate, and credited to their respective districts, as a basis for future apportionments."

It is apparent, from each of the foregoing statutory provisions, that only resident pupils may be counted in determining teaching units, as defined in Section 14, Laws of Missouri, 1931, at page 342. In Missouri School Laws

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of 1938, as published by Lloyd W. King, Superintendent of Schools, we find the following administrative rule established by this department:

"Only the attendance of the last school term of resident pupils in either the grades or high school can be counted for the purpose of establishing teaching units." (P. 48).

These rules established by the department which supervises our public school system should be given consideration where not directly in conflict with any statutory provision.

CONCLUSION.

It is therefore the conclusion of this department that non-resident pupils in either the grade or high school cannot be counted in determining teaching units as defined by statute for the purpose of apportioning state school funds.

Respectfully submitted,

APPROVED:

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RLH:RW