

SCHOOLS: Blind children must attend the Missouri School for the Blind if proper local education is not provided.

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October 16, 1945

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Hon. Robert H. The Superintendent
Missouri School for the Blind
3815 Magnolia Avenue
St. Louis 10, Miss

Dear Sir:

We are in receipt of your request for an opinion, dated October 16, 1945, in which you present the following questions:

Can the parents of a blind child of the age of eleven years be compelled to place said child in the proper educational institution, and what officers have the responsibility of seeing that said child is placed in school if his parents fail to comply with the law?

Is there any way in which the attendance officers may be continuously advised of the location of such child?

Section 10587, R. S. Mo. 1939, requires that all children between the ages of seven and fourteen years attend some day school or be provided with home instruction, with the further provision that a child between the ages of fourteen and sixteen years must attend some day school if not engaged in some useful employment. Certain exceptions to the law are enumerated. Section 10587 is as follows:

"Every parent, guardian or other person in this state having charge, control or custody of a child between the ages of seven and fourteen years shall cause such child to attend regularly some day school, public,

private, parochial or parish, not less than the entire time the school which said child attends is in session, or shall provide such child at home with such regular daily instruction during the usual hours as shall, in the judgment of a court of competent jurisdiction, be substantially equivalent at least to the instruction given the children of like age at said day school in the locality in which said child resides; and every parent or person in this state having charge, control or custody of a child between the ages of fourteen and sixteen years, who is not actually and regularly and lawfully engaged for at least six hours each day in some useful employment or service, shall cause said child to attend regularly some day school as aforesaid: Provided, that a child between the ages aforesaid may be excused temporarily from complying with the provisions of this section, in whole or in part, if it be shown to the satisfaction of the attendance officer, or if he declines to excuse, to the satisfaction of a court of competent jurisdiction, that said child is mentally or physically incapacitated to attend school for the whole period required, or any part thereof, or that said child has completed the common school course as prescribed by constituted authority, or its equivalent, and has received a certificate of graduation therefrom."

Section 10588, R. S. Mo. 1939, applies to physically handicapped children, and is as follows:

"The foregoing section shall apply to feeble-minded, deaf, blind and crippled children where special classes are provided for them as directed in sections 10351, 10352 and 10353, R. S. 1939: Provided, however, that the parent, guardian or other person in this state having charge, control or custody of such feeble-minded, deaf, blind and crippled children for whom special classes are pro-

vided, may provide such child at home with such regular daily instruction during the usual hours as shall, in the judgment of a court of competent jurisdiction, be substantially equivalent at least to the instruction given the children of like development in such special classes."

Section 10351, R. S. Mo. 1939, referred to in the above statute, provides for instruction in a special class for groups of ten or more blind, deaf, or crippled children in any school district, with education covering all elementary school grades.

Section 10352, R. S. Mo. 1939, provides that two or more school districts may combine to establish such special classes, but concludes as follows:

" * * * Provided, the pupils cannot be accommodated in the appropriate state institution established. "

It appears that if there are fewer than ten blind or deaf children within any school district, said children must attend the proper state educational institutions, unless they fall within the exceptions set out above in Sections 10587 and 10588.

Article 25, Chapter 72, R. S. Mo. 1939, provides for the establishment of the Missouri School for the Blind at St. Louis and the Missouri School for the Deaf at Fulton. Under Section 10853 of said article, all blind and deaf persons under twenty-one years of age, of suitable mental and physical capacity, who are residents of this state, may be admitted to the appropriate school. If the resources of any such person, or his parents, are inadequate, then the county court must order such person sent to the proper school at the expense of the county, under Section 10856.

With reference to your inquiry concerning the proper officer to compel attendance of children who are eligible for the Missouri School for the Blind, Section 10589, R. S. Mo. 1939, provides that the county superintendent of schools in each county shall act as school attendance officer for said county, with the specific direction that said officer shall act

in the event a special attendance officer is not provided by the board of education.

Under Section 10590, R. S. Mo. 1939, in counties having more than 200,000 inhabitants and less than 350,000 inhabitants, the county superintendent of schools shall select a school attendance officer for the county.

Section 10594, R. S. Mo. 1939, is the general statute for the enforcement of compulsory school attendance, and is as follows:

"It shall be the duty of the state superintendent of schools, of superintendents of instruction, of boards of education in this state, of the county superintendents of schools, of the county superintendents of public welfare, and of every school attendance and probation officer, to enforce all laws relating to compulsory school attendance."

As to your third question, that of ascertaining continuously the address of any blind child of school age in the state, we know of no way in which that may be done, except that Section 10545, R. S. Mo. 1939, provides for a census of the school children between the ages of six and twenty years, between the thirtieth day of April and the fifteenth day of May of each year. This census is delivered to the county superintendent of schools, and forwarded by him to the county clerk of each county, and the names of blind children of school age must be certified to the superintendent of the School for the Blind in St. Louis. The pertinent part of that section is as follows:

" * * * The County Clerk of each county shall certify * * * to the Superintendent of the School for the Blind in St. Louis the names of blind persons of school age in his county, giving name, age, sex and color, and the name and postoffice address of parent or guardian of such persons. * * * "

Summarizing the above, blind children of the proper school age are subject to the general compulsory school attendance laws,

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with the usual exceptions for home instruction and physical disabilities.

The state superintendent of schools and the county superintendent of schools, board of education, probation or attendance officer concerned, are charged with the enforcement of the compulsory school attendance laws.

The county clerk of each county must certify to the superintendent of the Missouri School for the Blind at St. Louis the names of blind persons of school age within his county, as furnished him by the county superintendent of schools each year.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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