

June 5, 1973

OPINION LETTER NO. 202
Answer by letter-Bartlett

Dr. Arthur L. Mallory
Commissioner of Education
State Department of Education
Jefferson State Office Building
Jefferson City, Missouri 65101



Dear Commissioner Mallory:

In accordance with your request of May 25, 1973, we have reviewed the Missouri State Board of Education's "Application for Program Grant for Migratory Children (fiscal year 1974)." This application is being submitted under Title I of the Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended by P.L. 89-750, P.L. 90-247, P.L. 91-230, and P.L. 92-318 (Section 20 U.S.C. Section 241e(c)).

In addition to the Elementary and Secondary Education Act of 1965, as amended, and the regulations propounded pursuant thereto (45 C.F.R. 116, October 1, 1972 edition), our review has taken into consideration Article III, Section 38(a), Missouri Constitution, and Sections 161.092 and 178.430, RSMo 1969.

Based on the foregoing, we hereby certify that the Missouri State Board of Education has authority under State law to perform the duties and functions of a "state educational agency" as defined in Title I of Public Law 89-10 (20 U.S.C. Section 244), including those arising from the assurances set forth in the application. The State Board of Education has the authority to administer the educational programs and projects for migratory children as set forth in the application and the purported restrictions on this authority set forth in paragraph 11 B.1. on

Dr. Arthur L. Mallory

page 9 and paragraph 15 A.2. on page 22 of the application are contrary to law. Barrera v. Wheeler, ____ F.2d ____ (8th Cir. March 16, 1973).

This opinion letter constitutes our official certification and should be inserted in the appropriate place in each copy of the application.

Yours very truly,

JOHN C. DANFORTH
Attorney General