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OPINION LETTER NO. 130

The Honorable Estil Fretwell  
Representative, 1st District  
Route #2  
Canton, Missouri 63435



Dear Representative Fretwell:

This letter is in response to your question which asks:

- (1) Does section 167.131, RSMo, apply to elementary students in grades kindergarten through grade eight?
- ( 2) Is an unclassified school district responsible for paying the tuition of a resident elementary student who attends an adjoining classified school district but who was not assigned to such adjoining school district by the commissioner of education, or his designee under the provisions of section 167.121, RSMo?

Paragraph 1 of § 167.131, RSMo 1978, states as follows:

The board of education of each district in this state that does not maintain an approved high school offering work through the twelfth grade shall pay the tuition of each pupil resident therein who has completed the work of the highest grade offered in the schools of the district and who attends an approved high school in another district of the same or an adjoining county, or an approved high school maintained in connection with one of the state institutions of higher learning, where work of one or more higher grades is offered.

The Honorable Estil Fretwell

The primary rule of statutory construction requires us to ascertain the intent of the legislature from the language used and to consider words in their plain and ordinary meaning. State v. Kraus, 530 S.W.2d 684 (Mo. banc 1975), and State ex rel. Dravo Corp v. Spradling, 518 S.W.2d 512 (Mo. 1974). It is apparent that the legislature intended the statute to apply only to high school students residing in a school district that does not maintain an approved high school. No similar reference is made in § 167.131 concerning elementary age students.

With respect to the second question you asked, we can find no statutory provision requiring an unclassified school district to be responsible for paying the tuition of a resident elementary student who attends an adjoining classified school district. Therefore, an unclassified school district is not responsible for paying the tuition of a resident elementary student who attends an adjoining classified school district either under § 167.131 or any other statutory provision, except if such child was assigned pursuant to the provisions of § 167.121, RSMo.

Very truly yours,



JOHN ASHCROFT  
Attorney General