

SCHOOL FOR THE BLIND: Under Chapter 72, Article 25, R. S. Missouri, 1939, if no separate school is provided for colored, blind children, such children are entitled to attend the Missouri School for the Blind.

November 24, 1941

Honorable R. Wilson Brown
Superintendent
Missouri School for the Blind
3815 Magnolia Avenue
St. Louis, Missouri



Dear Sir:

This department is in receipt of your letter of November 18th, wherein you make the following inquiry:

"The Board of Managers of the Missouri School for the Blind has asked me to get an opinion from you regarding the admission of negro children in the Missouri School for the Blind.

"Chapter 72, Article 25, Section 10853 of the Revised Statutes of the State of Missouri make no mention of the segregation of races. While the Board is opposed to mixing negro pupils with white pupils, the Board prefers to have your advice on the legality of making any discrimination."

Section 3, Article XI of the Constitution of the State of Missouri states that:

"Separate free public schools shall be established for the education of children of African descent."

By the provisions of Section 10350, Revised Statutes of Missouri, 1939, when there are eight or more colored children of school age within any district in this state,

the Board of Directors is authorized and required to establish and maintain within the school district a separate free school for colored children.

Section 10349, Revised Statutes of Missouri, 1939, is a reiteration of the constitutional provision, but contains the additional statement to the effect:

" * * * and it shall hereinafter be unlawful for any colored child to attend any white school, or for any white child to attend a colored school."

Referring to Section 10853, Revised Statutes of Missouri, 1939, the same being under Chapter 72, Article 25, entitled "Missouri School for the Blind, and Missouri School for the Deaf," we find that said section does not specifically exclude colored children, but states that:

"All blind and deaf persons under twenty-one (21) years of age, of suitable mental and physical capacity, who are residents of this state, shall be entitled to admission to the school for the blind and the school for the deaf, respectively.
* * * "

We are unable in our research to find any section or authority wherein a separate School for the Blind has been established for colored children. It was held in the case of State ex rel. Canada, 305 U. S. 337, 83 L. Ed. 208, that it was not unconstitutional for the State of Missouri to separate the races in the establishment of schools, but the same facilities accorded to a white student must be accorded within the state to a negro student.

In view of the fact, as stated above, that Missouri has not established any separate school for blind negro children, and that said children are entitled to the benefits

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of free learning for the blind, we are of the opinion that unless provision be made for separate education for negro blind children, they are entitled to attend the Missouri School for the Blind.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

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