

MISSOURI SCHOOL FOR THE BLIND: (1) Compulsory attendance law applies to blind children. (2) Questions relating to rules are admissible. (3) Missouri School for the Blind is a charitable institution in so far as income tax deductions are concerned.

October 30, 1941

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



Dear Sir:

You submit to this Department for official ruling, three questions which we shall answer in their numerical order.

"(1) Does the compulsory school law (Chapter 72, Article 12, Section 10587) apply to the Missouri School for the Blind? (Chapter 72, Article 25)"

Section 10587, R. S. Missouri, 1939, is so general in nature that it can be construed to cover Chapter 72, Article 25, relating to the Missouri School for the Blind and Deaf, as it makes no exception to the fact that a child may be deaf or blind. It has further provisions permitting the court, if necessary, to excuse a child mentally or physically incapacitated.

By the terms of Section 10845, R. S. Missouri, 1939, the Missouri School for the Blind at St. Louis is made a part of and to be conducted as an educational institution of the State of Missouri.

Section 10854, R. S. Missouri, 1939, compels the parents or the guardian of every deaf child between the ages of six and seventeen years to cause the child to attend regularly some recognized school for the deaf, but permits a child to be excused from attending school for the deaf if it is mentally

or physically incapacitated to attend.

Under Section 10856, R. S. Missouri, 1939, it is provided that upon the petition of any person a blind or deaf person is entitled to advantages of the Missouri School for the Blind and Deaf, and the parents or guardians are unable to pay the expenses of such child at the local school, the county court shall order the child sent to the proper school at the expense of the county for clothing and traveling expenses.

We are therefore of the opinion that it is compulsory for a blind child to attend school in accordance with the provisions of Section 10587, R. S. Missouri, 1939, unless excused due to the child being mentally or physically incapacitated to attend.

## II.

"(2) Is it the opinion of the Attorney General that the application for admission to this school, copy of which is attached, is in order from a legal standpoint? In considering this matter, please give attention to the following points:

"(a) The school feels it can better give individual attention when it has a great deal of information regarding the individual. Thus, is it proper for us to expect new students to supply us with the information requested on this blank.

"(b) Inasmuch as the State of Missouri does not make provisions for personal expenses of the students--these expenses include such items as hair cuts, toilet articles, shoe repair, etc.--is it within the right of the school to require parents or guardians to furnish each child with \$5.00 per school year as found on page 9?

"(c) Is it within the right of this school to require the parents or guardians to agree that the students, while enrolled in this school, are subject to the rules and regulations of the school? This is on page 12 of the attached blank. The purpose of this has been to impress upon parents the fact that while their children are here those children are expected to follow the usual procedure of the school including the regulations governing it and to thus avoid any misunderstanding if and when the students disregard of such regulations makes it necessary to dismiss him."

Section 10853, R. S. Missouri, 1939, is as follows:

"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. All admissions and discharges, and the length of the period of instruction of each pupil, shall be determined by the board of managers."

(a) You will note that all admissions and discharges are to be determined by the board of managers, and further, by the provisions of Section 10847, R. S. Missouri, 1939, the school is under the jurisdiction of a board of managers. Therefore, we are of the opinion that the board of managers has the authority to exact the data from the parents and guardians or the court that is attached to your request for an opinion. We have read the form attached "Application For Pupil Enrollment," and we find nothing unreasonable or illegal contained therein.

(b) By the provisions of Section 10853, quoted supra, all blind persons under the age of twenty-one (21) years, are entitled to admission to the school for the blind, subject to the action of the board. By the provisions of Section 10856, referred to above, a blind child is entitled to advantages of the Missouri School for the Blind or the Deaf, if the parents or guardians are unable to pay the expenses, the county Court can order the expenses for clothing and traveling to be paid by the county. As a result, all blind children subject to the action of the board are entitled to attend the Missouri School for the Blind, irrespective of their financial condition.

Powers and duties of a county court are of statutory origin. The statute, in referring to the traveling expenses to be paid by the county, we think refers to the expenses of the child to and from the school. We do not think that the county court has the authority to pay for more than one trip, that is, the trip of the child to attend in the beginning and its return at the close of the school. We think the term "expenses" as used in the statute, is broad enough to include the distribution of Five Dollars (\$5.00) per year for the incidental expenses that arise, such as hair cuts, toilet articles, shoe repairs, and that such a charge is not unreasonable.

(c) By the provisions of Section 10853, as mentioned and quoted above several times, all admissions and discharges are to be determined by the board of managers, and we are of the opinion that the rules and regulations of entrance and the conduct of the child while attending Missouri School for the Blind is under the control of the board of managers and the superintendent, and that it is not unreasonable to have the parents sign the enclosed form on page 12, except for any injury which might arise to the child due to carelessness and negligence or any other unreasonable injury to the child on the part of the school.

### III.

"Does the State of Missouri recognize private gifts to this school as being contributions to charity? It has been brought to my attention that certain

other schools for the blind are considered to be charitable institutions and therefore individuals may make private donations of money, consider such donations as charitable gifts, and exclude such gifts in their income tax exemptions to the extent of the law."

By the provisions of Section 10864, R. S. Missouri, 1939, the property of a school shall be under the care and control of the board of managers and there is a further provision as to the investment of the personal property "or donations to such school shall be vested in such board of managers of the respective schools for the use and benefit of the said schools." As mentioned above, the Missouri School for the Blind is designated as a part of the public school system of the state and, irrespective of whether the school be charitable or otherwise, by the provisions of Section 10887, R. S. Missouri, 1939, it is made lawful for any person to grant, give and devise to the public school fund of the State any money or property, real or personal.

Therefore, we are of the opinion that the school has authority to accept gifts or contributions. It is an institution maintained by the state, the same as all other schools of the state, and can be classified as a part of the free public school system. We are unable, in our research, to determine whether the courts of Missouri have ever classed the school for the blind as a charitable institution.

In the State of Illinois, in the decision of *Summers v. Chicago Title and Trust Company*, 335 Ill. 564, it was held that, even though students paid tuition, it does not change the character of the school as a charitable institution. It was held in the State of New York that New York University is a semi-public institution and a charitable institution. *New York University v. Taylor*, 296 N. Y. S. 848.

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We are of the opinion that it can be classified as a charitable institution. However, we suggest that you consult the Collector of Internal Revenue in St. Louis, as to the status of such gifts, and whether or not they can be deducted on the donor's income tax, as no doubt he has passed upon the actual or similar question.

Respectfully submitted,

OLLIVER W. NOLEN  
Assistant Attorney General

APPROVED:

VANE C. THURLO  
(Acting) Attorney General

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