

SCHOOLS:  
CONSTITUTIONAL LAW:

A person between his sixteenth and twenty-first birthdays has a right to attend public school in the district of his residence on a part-time basis, and to take any course which he would be entitled to take were he a full-time student. This right may not be denied because the person also attends a private parochial school. A school district has a duty to accept such a student. A school district may make such reasonable rules and regulations governing part-time students as will preserve the discipline, health, and academic standards of the school, but these rules may not be such as to place an unreasonable burden on part-time attendance.

OPINION NO. 73

March 14, 1973

Honorable Ray S. James  
Representative, District 31  
Room 202H, Capitol Building  
Jefferson City, Missouri 65101



Dear Representative James:

This official opinion is in response to your request for a ruling on the following questions:

"Does a person who is age 16, and therefore not subject to the Compulsory Attendance Law, Section 167.031, RSMo 1969, who is enrolled in, and attending, a private parochial school, have a right to attend part time (i.e. a limited number of classes of the general curriculum such as world literature, chemistry, physics, radio speaking, dramatics, foreign languages, etc.) the public school within the district of the person's residence? If the person has such a right do the public school authorities have a duty to enroll the person as a part time student (i.e. to attend a limited number of classes) subject to needful rules and regulations to insure the orderly conduct of the school? If the public school authorities have such a duty is the authority of the school board to issue needful rules and regulations limited to reasonable requirements for academic standards, health, discipline and other requirements to insure the orderly conduct of the school which do not

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arbitrarily deprive a person the opportunity of part time attendance?"

In effect, each of these questions is the same. If the first question is answered in the affirmative, that is, if a student has a right to attend public school part-time, then the other questions are answered as well: the school will have a duty to accept him, and the school may not avoid that duty by imposing unreasonable rules and regulations which frustrate the student's right. Conversely, if we determine that there is no right to part-time attendance, then the school has no duty to enroll part-time students, and the rules and regulations which the school imposes matter little.

The legal issues raised by your questions have been answered in our Opinion No. 133, 1971, copy enclosed, and we refer you to that opinion for a full discussion of these issues. In that opinion we ruled that a person between his sixteenth and twenty-first birthdays is entitled, as a matter of Missouri constitutional law, to attend a public school in his district on a part-time basis if he desires. We further determined that such part-time attendance could not be denied a student on the grounds that he also attended a parochial school.

Opinion No. 133, 1971, dealt specifically with vocational schools, and you tell us that it has been interpreted as applying only to vocational education. We believe, however, that the principles expressed in Opinion No. 133, 1971, are not limited to vocational education, but rather, they extend to all subjects taught in our public schools. An examination of the opinion will reveal that the constitutional issues involved are the same whether the subject taught is mechanical arts or plane geometry, as long as the course is being taught in a public school by a public teacher to all students on the same basis.

In implementing its duty to accept part-time students, a school district may establish reasonable rules and regulations to insure the orderly operation of the school, but it may not make the rules in such a way that the right of students to attend part-time is impaired. For instance, a rule which keeps students out of the halls except between classes might be proper, but a rule preventing students from entering or leaving the building during the school day would be unacceptable, at least as it applies to part-time students. (Nothing here should be taken to deny a school district's power to keep unauthorized persons out of its buildings or to require proper identification of all students.) For a fuller discussion of the reasonableness of rules, see Opinion No. 133, 1971, at pages 6-8.

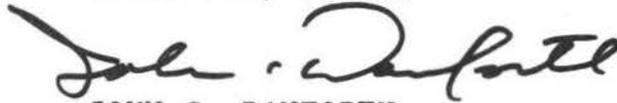
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CONCLUSION

Therefore, it is the opinion of this office that a person between his sixteenth and twenty-first birthdays has a right to attend public school in the district of his residence on a part-time basis, and to take any course which he would be entitled to take were he a full-time student. This right may not be denied because the person also attends a private parochial school. A school district has a duty to accept such a student. A school district may make such reasonable rules and regulations governing part-time students as will preserve the discipline, health, and academic standards of the school, but these rules may not be such as to place an unreasonable burden on part-time attendance.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard E. Vodra.

Yours very truly,



JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 133  
10-28-71, Jasper