

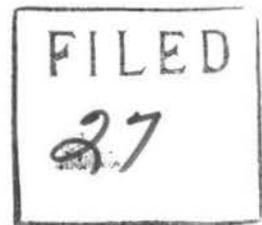
SCHOOLS:
TUITION:
JUVENILES:
BOARD OF TRAINING SCHOOLS:

A child under the custody of the State Board of Training Schools who has been placed in his own home, a relative's home, a foster home or a group home is entitled to attend the public school district in which such home is located without payment of tuition.

OPINION NO. 27

March 9, 1973

Mr. Frederick O. McDaniel
Acting Director
Missouri State Board of
Training Schools
Post Office Box 447
Jefferson City, Missouri 65101



Dear Mr. McDaniel:

This is in response to your opinion request wherein you ask the following questions:

"The Missouri State Board of Training Schools is inquiring as to the propriety of the claim for tuition under the following circumstances.

- a) A child is institutionalized and thereafter released on community placement to his parents or family. He attends public school while on community placement and makes satisfactory adjustment and is discharged, can a proper claim for tuition be made for the time the youth attends public school prior to his discharge from supervision?
- b) A child is institutionalized but is returned on community placement to a relative in a community different from his original home and attends public school and is ultimately discharged from supervision of the Board of Training Schools, can the school district make a proper claim for tuition for the time the youth attends public school prior to the time he is discharged from supervision?

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c) A child is institutionalized and given community placement in a foster home, he then attends public school and is ultimately discharged, can the school district make a proper claim for tuition for the time the youth attends school prior to the time of his discharge from supervision?

d) A child is institutionalized and is ultimately given community placement in a Group Home and attends public school and at some point is discharged from supervision, can the school district make a proper claim for tuition for the time the youth attends the public school prior to the time he is discharged from supervision?

e) A child is not institutionalized but is immediately placed on community placement with a relative in a community other than that from which he came and is supervised by the Placement Division in that community. He attends public school and is ultimately discharged from supervision. Can a school district make a proper claim for tuition for the period of time that the child attends school prior to the time he is discharged?

f) A child is not institutionalized but is released on community placement to a foster home where he attends public school and is ultimately discharged. Can the school district make a proper claim for tuition during the time the child attends public school prior to his discharge from supervision?

g) A child is not institutionalized but is released on community placement to a Group Home, he attends public school and is ultimately discharged, can the school district make a proper claim for tuition for the time that the child attends school from the Group Home prior to his discharge from supervision?

h) In the event a school district can make a proper claim for tuition in any of the above styled incidents is it the obligation of the Board of Training Schools to pay the tuition required or is the tuition to be paid by the home school district of the child or from some other source and if so what is the source?"

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By way of further explanation you also state:

"A Group Home is staffed and managed by the State Board of Training Schools. The Group Home shall have an appointed administrative head. This individual is a professional caseworker. The remainder of the staff includes two full time house parents, one part time houseparent, and one full time cook. There are no education services provided as a part of the Group Home Program. The unit shall provide dormitory and food services and staff supervision shall be on a 24 hour basis. A primary consideration in the foster home or group home program is the development of community resources in dealing with the rehabilitative process of the child. In view of the fact that the purpose of these programs is to keep the child in touch with the community and teach him how to operate positively within the community it is necessary for him to attend local institutions. This would include the public school system.

"Classification to the foster home or group home program shall be accomplished by the Board of Training School's Central Office after careful consideration of the social data and upon recommendation of the reception and orientation staff at the Training School. Children who have a mild history of delinquency will be candidates for such programs."

It is also our understanding that the group homes of which you speak are or will number approximately ten throughout the state, each housing approximately eight juveniles and that such homes are not directly connected with the major institutions of the Board of Training Schools, although they are, as you have indicated, operated by the Board using appropriations made for such purposes.

The questions you present must be considered in light of the general state policy toward free public education as set forth in the Constitution of Missouri, Article IX, Section 1(a), which provides as follows:

"A general diffusion of knowledge and intelligence being essential to the preservation of

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the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law. . . ." (emphasis added)

The Springfield Court of Appeals in State ex rel. Halbert v. Clymer, 147 S.W. 1119, 1120 (Spr.Ct.App. 1912) recognizing this policy as defined by the above-quoted constitutional provision stated:

"The policy of this state is to educate and to furnish free of charge good schools for all children of school age, and even to compel the attendance of children thereto. . . . It is therefore the duty of the courts to liberally construe our statutes relating to schools, and in such a manner as to open, and not to close, the doors of the schools against the children of the state. . . ."

Section 219.020, RSMo, provides:

"There is hereby created and established a 'State Board of Training Schools' which shall have charge and control of all training schools and industrial homes for boys and girls of this state, specifically: The Training School for Boys at Boonville; The Training School for Girls; together with all branches and divisions thereof; and over all institutions for correctional training of juveniles which may hereafter be created in this state, which schools are hereby classified as educational institutions and recognized to have as their purpose the special correctional training, the education and the moral rehabilitation and guidance of juvenile offenders which any court of proper jurisdiction may assign to such institutions. The board shall provide for the reception, classification, care, activities, correction, education and rehabilitation of all juveniles committed by law to its charge or to any institution under its control."

Section 219.130, RSMo, provides:

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"It shall be the duty of the board and the director of training schools, and of all the officers and employed personnel under their direction, to establish such courses of academic, vocational and other training and guidance as shall be best suited to accomplish the purpose of correcting previous deficiencies in the proper training of each child committed to their charge, and of pointing such child toward future law-abiding citizenship. It shall be the duty of the board and the director to request the assistance of the state department of education, or any branch or division thereof, and to utilize such assistance in establishing and maintaining special training programs for the mentally retarded; for manual, industrial and vocational schooling; and for all other educational activities which the board may deem necessary."

It is our view that the legislature in enacting the above sections intended to require the State Board of Training Schools to provide education to children confined in the training schools and that the above sections do not authorize the expenditure of appropriations to the training schools for the purpose of providing education in the public schools of this state in the situations you present.

Clearly, students are entitled to attend public schools in the district of their residence without payment of tuition. Barnard School District v. Matherly, 84 Mo.App. 140 (K.C.Ct.App. 1900). And, subsection 2 of Section 167.151, RSMo, provides:

"Orphan children, children with only one parent living, and children whose parents do not contribute to their support--if the children are between the ages of six and twenty years and are unable to pay tuition--may attend the schools of any district in the state in which they have a permanent or temporary home without paying a tuition fee."

In passing on the provisions of the above section in determining whether students qualify for a tuition free education, the courts have recognized a distinction between domicile and residence. State ex rel. Halbert v. Clymer, *supra*; Binde v. Klinger, 30 Mo.App. 285 (St.L.Ct.App. 1888). Under these authorities and under such circumstances, even though a child's domicile remains with his parents, his residency for school purposes is where he actually resides with some exceptions not relevant here.

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The children placed with a relative, in a foster home or in a group home come within the purview of subsection 2 of Section 167.151 because the parents of such children do not contribute to their support and they are children within the purview of subsection 2 of Section 167.151. As a consequence, such children are entitled to attend the school in the district where the home in which they are placed is located regardless of their legal domicile.

The conclusion we reach is applicable to each of the questions presented. That is, whether or not a juvenile is technically under the custody of the State Board of Training Schools if the Board has released him to his parents or relatives, or places him in a foster home, or gives him community placement in a group home, the child is entitled to a free public education. In our view, the question of the control of the Board over the child does not affect the child's right to an education under such circumstances. If the child is placed with his family, unquestionably he is a resident of the school district where his family resides. If the child is placed in a home in a school district other than his domicile and comes within the purview of subsection 2 of Section 167.151, he is entitled to attend the schools of any district in the state in which he has even only a temporary home.

Insofar as concerns the question of whether or not such a child comes within subsection 2 of Section 167.151, the reference in that subsection to "children whose parents do not contribute to their support" means, in our view, literally what it says. The phrase does not bring into question the parents ability to support the child but only the fact of whether or not the child is supported by his parents. As we indicated, it is our view that these juveniles, under the liberal Clymer holding, would be considered as not supported by their parents.

CONCLUSION

It is the opinion of this office that a child under the custody of the State Board of Training Schools who has been placed in his own home, a relative's home, a foster home or a group home is entitled to attend the public school district in which such home is located without payment of tuition.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Yours very truly,



JOHN C. DANFORTH
Attorney General