

Opinion No. 88.

Schools and School Districts—Vocational Educational Centers—Persons Eligible for Attendance—Apportionment of Funds.

HELD: 1. High school graduates, between the ages of sixteen and twenty-one years are entitled to admission to vocational training schools.

2. State apportionments shall be made to the school districts of the person's attendance, where such person is between the ages of sixteen and twenty-one years, and resides within the county.

3. The school district of the person's attendance, where the person is between the ages of sixteen and twenty-one years and resides out of the county, shall receive no other compensation than that provided for in Section 4, Chapter 160, Laws, 1939.

4. Persons over the age of twenty-one years may be permitted to attend vocational school upon payment of fee set by vocational board, and for such person's attendance, the district shall receive no other compensation or fee.

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June 22, 1939.

Mr. Harold K. Anderson  
County Attorney  
Helena, Montana

My dear Mr. Anderson:

You have submitted to this office for my opinion the question as to whether or not high school graduates may be admitted to vocational training centers, and if so are they to be counted in the apportionment of funds; and could funds be transferred from other districts to the district maintaining the vocational training center to pay for the attendance of high school graduates?

Section 3 of Chapter 160, Laws of 1939, provides that any person who is a resident of the State of Montana, between the ages of sixteen and twenty-one years, shall be admitted to a vocational education training center. Inasmuch as Section 3 expressly designates the qualifications for admission such qualifications are exclusive. The rule of statutory construction prohibits the insertion of language in a statute which has been omitted (Section 10519, R. C. M., 1935; *Morrison v. Farmers State Bank*, 70 Mont. 146). The maximum of "expressio unius est exclusio alterius" is applicable. (25 C. J. 221; *Ex Parte Arascada*, 189 Pac. 619, (Nev.); *Brown v. City Council*, 258 Pac. 307.) The statute not having designated scholastic qualifications as a requisite it follows that a high school graduate is eligible for admittance. Section 5 of said chapter provides for the promulgation of uniform rules and regulations for admittance by the State Board for vocational education. The Legislature having enumerated the necessary qualifications for admittance the State Board by making rules and regulations cannot establish different or additional qualifications. Rules and regulations so promulgated are circumscribed by statute, and relate to the form of the admission applications and similar matters.

Chapter 160 places no restriction upon the apportionment of funds to persons, within the county, admitted to the vocational education center, who are between the ages of sixteen and twenty-one years whether high school graduates or not. Section 1204 authorizes apportionment being made upon the basis of the census of school children between the ages of six and twenty-one years. Section 7, Article XI of the Constitution does not pro-

hibit the Legislature from extending school facilities, in the form of vocational education to high school graduates. Said apportionment should be paid school districts, where vocational education training centers are located, for persons attending the same, from within the county, and who are between the ages of sixteen and twenty-one years.

The school district where the vocational training center is located, and where persons from without the county are attending, and who are between the ages of sixteen and twenty-one years, will receive from the school district of the person's residence, from the high school transfer fund, fifty cents (50c) for each and every day of attendance, at the time of the June apportionment, provided that attendance for less than thirty-five days shall not be counted, and further provided that the total amount apportioned for each attendant for each school year does not exceed \$90.00. The money shall be paid from the high school transfer fund by the county treasurer upon the order of the board of county commissioners. (Section 4, Chapter 160, supra.) The source as well as the amount of the funds having been expressly provided for, it follows that no state apportionment or other funds shall be granted.

Applicants who have passed their twenty-first birthday may be admitted to designated vocational education training centers, upon paying tuition in an amount to be fixed by the State Board. Such persons do not come within the age limit of persons who are entitled to receive the benefits of the state apportionment. The tuition required to be paid is a personal obligation, and the district where such person attends will receive no other compensation.