

County, Liability Of. Maintenance, Indigent Children Of. Indigent Children, Support Of. School, Deaf and Blind, For. Support of Children At.

The county is liable for the support of Indigent Children, wards of the County, attending Montana School for the Deaf and Blind during the summer vacation at such school.

Helena, Montana, May 14th, 1906.

Hon. J. F. Wegner, Chairman, Board of County Commissioners, Helena, Montana:

Dear Sir: I am in receipt of your communication of May 5th, submitting for the consideration of this office the question as to the liability of your county for the support of certain children now at the Montana School for the Deaf and Blind.

It appears from the statement that certain feeble minded and indigent children, wards of Lewis and Clark County, were sent to the school and have been maintained there during the school year in accordance with the law governing that institution. The school year ends on the second Wednesday of June, and the question presented is "Is it the duty of Lewis and Clark County to support these children during the summer vacation of the school?"

In the first instance, the duty of support is devolved upon the relatives of the children. If their circumstances are such that they cannot furnish such support the county assumes that liability.

Sec. 3200, et seq., Political Code.

The Montana School for the Deaf and Blind is a State Educational Institution (Opinion to Gov. Toole, March 3rd, 1906); it is not a poorhouse. Persons attending such school who are without means of subsistence are entitled to support in their respective counties out of the poor fund raised for that purpose. The provisions for shelter and board of pupils while under instruction is merely a necessary incident. It

is as much the duty of the county to support such indigent pupils during the summer vacation as it would be if such pupils were expelled or suspended under the provisions of Section 2342 of the Political Code, or otherwise ceased to attend school.

Curtis v. Allen, 43 Neb. 184.

Whether the children should be sustained at the institution during the summer vacation, or brought home and then returned, is a business proposition that addresses itself to the discretion of the Board of County Commissioners.

The compulsory education law, Sec. 1920, et seq., Political Code as amended, laws of 1903, p. 92, and in 1905, page 172, require the children to attend school.

Respectfully yours,

ALBERT J. GALEN,

Attorney General.