

Schools, Text-Books in. Text-Books, Supplementary and Basal. Pupils, Purchase and Use of Text-Books by. Public Schools, Text-Books in.

1. Supplementary text-books are supplied by the district or purchased by the pupil in the same manner as are basal text-books.

2. Supplementary text-books may be used to the exclusion of basal text-books when sufficient under the course of study pursued.

Helena, Montana, January 20, 1909.

Hon. W. E. Harmon, Superintendent of Public Instruction, Helena, Montana.

Dear Sir:

I am in receipt of letter of the 12th instant, submitting for the consideration of this office the following questions:

1. Can pupils in public schools be required, under the provisions of Chapter 132, Laws of 1907, to purchase supplementary books, or must such books be purchased by the district?

2. Is it legal to use any supplementary book to the exclusion of the basal text book?

1. The law relating to the state text-book commission, created by the Act of March 7, 1907, (House Bill No. 140) appears in the Revised Codes of Montana of 1907 as Sections 791 to 804. Under the provisions of that law the text-book commission selected the books to be used in schools, both basal and supplementary, and by the provisions of section 802 the districts were given the authority, by vote, to furnish free text books, and basal text-books and other text-books stand on the same basis and are supplied to pupils in the same manner. If the district has voted for free text-books, then it is the duty of the district to furnish them; otherwise, it is the duty of the parent, guardian or person having the pupil in charge, or of the pupil himself to furnish the books.

2. In paragraph 2 of Section 794 it is provided:

"Said commission are hereby empowered to adopt such other text-books, supplementary to the basal text-books above referred to, as they may deem advisable,"

and by the provisions of Section 795 it is made the duty of the commission

"To select and adopt such text-books, both basal and supplementary for use in the public schools of this state."

Section 800 makes it a misdemeanor to

"Use, or provide for the use in the public schools of the state text-books other than those adopted by the state text-book commission."

But under the law, supplementary books are text-books in the same manner that basal books are text-books. Hence, a person supplying or providing for the use in schools of supplementary books is within the terms of the law in the same manner that he would be in providing for the basal books.

The law does not specifically require that the basal books shall be used prior to the supplementary books, nor that the supplementary books cannot be used except in connection with the basal books. Hence, if the supplementary books are sufficient to enable the course of study to be properly pursued, there is no prohibition against their selection, even if the basal books are not supplied. The natural order and arrangement would, perhaps, suggest that the supplementary books should follow the basal books, but this is a penal statute and must be strictly construed. Hence, there is no law prohibiting the use of the supplementary books to the exclusion of the basal books, provided the supplementary book is sufficient within itself for the course of study pursued.

Very truly yours,

ALBERT J. GALEN,

Attorney General.