

**School Districts, Right of Children to Attend. Children Right to Attend Public Schools. Teacher, Right to Refuse Attendance of Children.**

Common schools in this state are maintained at the public expense and are free and open to the admission of all children residing in the district between the ages of six and twenty-one years, and there is no authority of law for either the teacher or the school board to prevent children from attending unless they start at the beginning of the term. Children may commence their attendance at anytime.

October 24, 1911.

Hon. P. E. Allen,  
County Attorney,  
Red Lodge, Montana.

Dear Sir:

I am in receipt of your letter of the 20th inst., submitting the following question:

"A party by the name of Miller has two children of the ages 6 and 8 respectively; he moved into district numbered 30 (Fromberg) about two weeks subsequent to the beginning of the school year; he sent his children to the school above referred to and the teacher refused their admittance until the second semester, which will be after the first of next January. The father is a tax-payer and free-holder of the district. Can the TEACHER refuse to admit pupils TWO WEEKS after school has began?"

As stated in your letter, common schools in this state are maintained at the public expense and are free and open to the admission of all children residing in the district, between the ages of 6 and 21 years, and, by the provisions of Sec. 965, et seq., children are required by law to attend school. While there is thus a positive provision of law requiring children to attend, we know of no provision of law requiring them to remain absent simply because they cannot be in attendance at the beginning of the term. If the children are behind in their studies they will certainly not be aided by enforced absence from the school. Inconvenience may arise by reason of children not being able to start with the class to which they belong, but every line of business has its inconveniences. There is no authority of law for any rules being established either by the teacher or by the district school board to the effect that children must start at the beginning of the term or remain absent until the beginning of the next term.

Your opinion is affirmed.

Very truly yours,

ALBERT J. GALEN,

Attorney General.