

School Districts—Trustees, Powers of.

A board of school trustees have authority to make reasonable rules compelling children to attend the school nearest their place of residence, if it is necessary for the successful management and discipline of the school in such district.

May 11, 1917.

Miss May Trumper,
Superintendent of Public Instruction,
Helena, Montana.

My Dear Miss Trumper:

You have requested my opinion upon the question of whether or not a Board of School Trustees have authority to compel children to attend the school nearest their place of residence where there are two or more schools in the same district.

Section 508 of the School Law, Chapter 76 of the 1913 Session Laws, provides in part as follows:

“508. Duties. Every school board unless otherwise specially provided by law shall have power and it shall be its duty:

1. To prescribe and enforce rules not inconsistent with law, or those prescribed by the Superintendent of Public Instruction for their own government of schools under their supervision.”

Officers of school districts are public officers, and, like other public officers, their authority and powers are generally determined by statute and they can rightfully perform all those acts which the law expressly or impliedly authorizes.

“School boards and other educational authorities of the State have the power to adopt appropriate rules and regulations for the government of the schools under their control, and when

so adopted, such rules and regulations are analogous to by-laws and ordinances, and are tested by the same general principles. And the general power to take charge of the educational affairs of a district, or prescribed territory, includes the power to make all reasonable rules and regulations for the discipline, government and management of the schools within the district or territory."

The law of Public Schools by Voorhees, Sec. 84.

It was said in the case of *Wilson v. Board of Education*, 233 Ill. 464, 84 N. E. 697, 15 L. R. A. (N. S.) 1136 on page 1139:

"The power of the board of education to control and manage the schools and to adopt rules and regulations necessary for that purpose is ample and full. The rules and by-laws necessary to a proper conduct and management of the schools are, and must necessarily be, left to the discretion of the board, and its acts will not be interfered with nor set aside by the courts, unless there is a clear abuse of the power and discretion conferred. Acting reasonably within the powers conferred, it is the province of the board of education to determine what things are detrimental to the successful management, good order, and discipline of the schools and the rules required to produce these conditions."

In view of the expressed power given to a board of trustees of a school district to prescribe and enforce rules for the government of schools under their supervision and the above quoted authorities, it would appear to me that if it is necessary for the successful management and discipline of the schools in a school district, the board of trustees would have authority to compel children to attend the school nearest their place of residence. The board must act reasonable in making such rules.

Respectfully,

S. C. FORD,

Attorney General.