

**Sectarian Institutions—Schools—Pupils—Board and Room.**

It is not a violation of section 8, article XI of the constitution for a parochial institution to furnish board and room to a pupil which is paid for from public school funds where the child attends the public school.

Miss Jessie M. Morgan,  
County Superintendent of Schools,  
Helena, Montana.

June 5, 1926.

My dear Miss Morgan :

You have requested my opinion whether a school district may, in the interest of economy, close a school and send the child to a public school in another district and pay the board or room of the child at a sectarian institution.

It appears in this case that school district No. 29 has but one pupil in the district and that this pupil is at present attending the public school in district No. 1 of this county, the trustees providing for its board and room at a sectarian institution.

Section 1010 R. C. M. 1921, as amended by chapter 76, laws of 1925, provides :

“When they deem it for the best interest of such district and the pupils residing therein, that any of such pupils should be sent to a school in their own or some other district, they may expend any moneys belonging to their district for the purpose of either paying for the transportation of such pupils from their homes to the public school or schools of such district or for their

board while actually attending such schools or for rent; provided, that if there are five pupils or less, then the county superintendent of schools and county commissioners shall determine before any contracts are entered upon whether such provision of board, rent, transportation or tuition is justified by the circumstances and also what is a reasonable charge for board, rent, transportation or tuition in every case where such measures have been adopted."

The only school in another district to which this section alludes is a public school, for no other than a public school is, or could be, intended by reason of the following constitutional provision:

"Neither the legislative assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever." (Sec. 8 of article XI of the constitution.)

There is nothing in this section that would prevent the boarding or rooming of a child by any public or private institution or person, provided the child attended the public school. Board or room is paid under this provision in lieu of transportation and was intended to be paid to the parents where they are required to move from their home or to send their children away from home so as to be able to attend school. It would not matter, therefore, whether board or rent was paid directly to the parents or to someone who actually furnished the board at their direction. The amount allowed, however, must first be approved by the county superintendent of schools and by the board of county commissioners, as must also the justification of doing so under the circumstances.

It is, therefore, my opinion that a school board is not precluded from paying board or rent where a child attends school in another district by reason of the fact that the child is boarded or roomed at an institution under sectarian control, provided the child does so in order to attend a public school, and provided that the amount allowed by the district, as well as the justification for doing so, be first approved by the county superintendent of schools and by the board of county commissioners of the county in which the school district is located.

Very truly yours,

L. A. FOOT,  
Attorney General.