

**School Districts—Per Capita Cost—Attendance—Pupils—
Tuition Charges.**

Where pupils attend school outside their districts and no contract is entered into between the districts as to tuition charge the district furnishing the school is entitled to receive an amount from the other district equal to the per capita cost.

Mr. R. F. Wellcome,
County Attorney,
Superior, Montana.

December 26, 1931.

My dear Mr. Wellcome:

You have requested an opinion regarding the per capita cost of educating pupils who attend school in another district where there is no contract between the boards of the two districts.

Section 1010 provides:

“When a district is relieved of the necessity of supporting any school by the fact that all or a part of the children residing in the district are being provided with schooling in another district, it shall be the duty of the trustees in the district holding no school to assist in the support of the school which the children of their district are attending, in proportion to the relation the number of children from their district attending school in another district bears to the total number of children enrolled in the school in the other district.”

In this case it appears that the county superintendent of schools fixed the proportionate amount for the previous school year, but that it did not cover the per capita cost. I am of the opinion that district number 2 is entitled to the further sum under the provisions of the statute and in the absence of any contract which it appears was not made in this case.

You do not state whether district number 4 has sufficient funds in the present year to meet this obligation which it had a right to assume had been satisfied, or whether the budget for the present year provided for this expenditure. The budget, in my opinion, would be a limitation in this regard unless it has sufficient funds to meet the tuition charge of the present year and in addition can transfer from other items of its budget. If no provision was made in the budget it is my opinion that district number 2 will have to wait payment until such time as sufficient levy can be made to cover the additional amount; otherwise, stated district number 2 is entitled to receive from district 4 such additional sum as will equal the per capita cost as required by the statute in the absence of a special agreement, but the county superintendent of schools should not withhold apportionment at this time if it will cripple the finances of district number 4 for school expenditures for the present year and unless budgeted for.

Very truly yours,

L. A. FOOT,

Attorney General.