

Opinion No. 392

**Schools—High Schools—Pupils, Where
to Attend School—Trustees, Power
to Compel Attendance of Pupils
—High Schools, “Most Acces-
sible”—County High
Schools—District
High Schools**

HELD: Sections 18 and 44, Chapter 148, Laws of 1931, must be read together to get the legislative intent; Trustees of District High School Districts have jurisdiction only over pupils residing within the district to decide which shall attend; Trustees of County High School Districts may, in their discretion, assign and re-assign pupils to high schools within the county as may, to them, seem for the best interests of the schools or the pupils; Each pupil attending the required time should be accredited to that high school to which he shall be assigned.

The question of “most accessible” high school involves a question of fact for the trustees to determine.

November 18, 1933

You have requested my opinion concerning the payment of transportation to high school pupils. The pertinent facts will appear in the discussion herein.

Section 18, Chapter 148, Laws of 1931, provides that the board of trustees of a county high school may pay transportation of pupils. Section 44, Chapter 148, supra, as amended by Chapter 156, Laws of 1933, provides that the board of trustees of any high school district may pay transportation of pupils. The two sections must be read together to get the intent of the legislature. It is obvious, in our opinion, that the trustees of the district high schools are empowered to decide, in their discretion, what high school the pupils in their district shall attend. Likewise the trustees of the County High School are empowered to decide, in their discretion, what eligible high school pupils, who do not reside in territory comprised in some district high school, shall attend. This respective power in the district and county high schools' trustees, is modified, in our opinion, only where the statutes provide that a pupil may attend at some other school, such as is

provided for in Section 51, Chapter 148, Laws of 1931.

As we understand the facts in the controversy between the Manhattan and Belgrade Schools, the pupils the two schools claim should attend their respective schools reside in territory not incorporated in any district high school. If this be true the controversy is one that falls under the jurisdiction of the trustees of the County High School of Gallatin County. Neither the trustees of the Manhattan or the Belgrade school have any authority in the matter. The trustees of the county high school may assign the pupils in the controverted territory to either Belgrade or Manhattan, or they may assign a part to one and a part to the other, but in making such assignments the trustees of the county high school should assign each pupil to the high school nearest or most accessible to the pupil. If any pupil is dissatisfied with such assignment it is our opinion that the trustees of the county may, in their discretion, reassign any such pupil to another school, if the trustees deem such reassignment to be for the best interest of the schools or the pupils.

We are of the opinion that each pupil attending the required time should be accredited to that high school to which he shall be assigned as provided above.

Assigning a pupil to the "most accessible high school" involves questions of fact that the trustees will have to determine from actual knowledge or from satisfactory evidence submitted to them.