

Opinion No. 642

School Districts—Closed Schools—Non-Resident Attendance—Consent of Trustees—Tuition.

HELD: Where a school is closed, pupils must attend the school designated by the trustees of the home dis-

district, and if they attend any other district it must be by the consent of the trustees of such other district, and on the payment of tuition.

November 14, 1935.

You request an opinion whether pupils of school age, authorized by the trustees of their home school, which has been closed, to attend another school, may attend a school other than that designated by the trustees, without paying tuition and without the consent of the school officials of the school where the pupils desire to attend. You also request advice as to whether the parents of such pupils are liable to prosecution for not sending their children to school on being denied the privilege of having them attend at a school of their own choice.

The closing of schools, the transfer of pupils from one district to another, and providing for their transportation, are matters to be exercised by the board of trustees and within their discretion. (Section 1056, R. C. M., 1921; *State v. Deonia*, 67 Mont. 201; *Peterson v. School Board*, 73 Mont. 442.)

We are of the opinion that pupils must attend the school designated by the trustees of their home district, and if they attend at any other district it must be by the consent of the trustees of such other district, and on the payment of tuition. (56 C. J. pps. 809-811, secs. 986-987). The trustees are not legally bound to transfer school funds to pay the pupils' tuition at a school until the trustees authorize such attendance.