

Opinion No. 98**Schools—High Schools—Rules—Pupils.**

HELD: The rule that a tardy high school pupil must go to the assembly room for study and make up the work of the recitation period after regular school hours is not unreasonable, but should not be harshly enforced.

February 27, 1933.

You have requested my opinion on the legality of the regulation of the Roundup High school on the following matter: "It is the practice in the Roundup High School to send to the assembly room for study those pupils who are tardy in the morning, at noon, or at any other of the six class periods during the day. * * * Pupils who miss a recitation period are permitted to make the work up after school."

The rights of pupils are well defined by the following statutes, Section 79, sub-chapter 3, of Chapter 148, Laws of 1931, page 372:

"Attendance at any accredited high school shall be free to all eligible high school pupils residing in the county wherein such accredited high school is located except for such fees as the board of trustees are otherwise specially authorized by law to exact."

Sub-chapter 4, Section 83:

"The board of trustees of every county high school and of every school district maintaining a district high school shall have the power, and it shall be its duty: * * *

"8. To admit to the high school without payment of tuition any pupil residing within the county and eligible for admission to high school under the rules and regulation of the State Board of Education."

The State Board of Education has made no specific rule applying to the particular regulation you submit but the following citations are pertinent:

"In carrying the law into effect, the board may prescribe rules for the government of the schools and enforce them, but such rules must be reasonable, and calculated to promote the objects of the law in conferring the right of an education upon all children of legal age. * * *

"The law confers upon all children of proper age the right to be taught the enumerated branches, and any rule which, by its enforcement, tends to hinder or deprive the child of this right cannot be sustained. All the rules must be adapted to the promotion and accomplishment of this great paramount object of the law." Board of Education v. Bolton, 85 Ill. App. 92.

In establishing rules and regulations for local school government, trustees and other officials are granted very liberal statutory discretion but such discretion must be exercised within the spirit and intent of the law. "Where anything is left to any person to be done according to his discretion, the law intends it must be done with a sound discretion and according to law." Words and Phrases, Volume 3, page 2099.

The rule is not unreasonable but it may be that in the particular case it is being rather harshly enforced. So long as exception can be made to the rule, (and it appears that there are some exceptions to it according to the Clerk's letter) it might be advisable to make another exception or to place it within the discretion of the principal to make an exception in a particular case.