

Opinion No. 12.

Schools—Residence—Census.

HELD: A pupil who has resided all of her life with her grandmother and gone to school at such place of residence is, for school purposes, a resident of the district where she resides with her grandmother and should be legally included in the school census of that district.

December 26, 1934.

Mr. Sherman W. Smith
County Attorney
Helena, Montana

We acknowledge receipt of yours of December 24, requesting an opinion from this office on the following matter:

"I have been asked for an opinion on the following question:

"A young girl, approximately 11 years of age, has been living all of her life with her grandmother in Wolf Creek and has attended school in Wolf Creek continuously and has attended no other school. Her father is a school trustee in another district and he lives in said other district. He has been receiving \$15.00 per month from his school district to pay for her attendance in the school at Wolf Creek and for a period of nine months each year even though the school term in the district in which the father is a trustee is only for a period of seven months.

"It is my opinion that this is a flagrant abuse of discretion on the part of the school board and that the child's residence is with her grandmother at Wolf Creek and that the school board of which her father is trustee is not obliged to furnish any fund whatsoever for schooling.

"Will you kindly advise me your opinion on this matter and oblige?"

Upon the facts stated by you and the general rule laid down in Board of Trustees, etc., v. Annie Rogers Powell, 140 S. W. 67, (Ky.) 36 L. R. A. (n.s.) 341, and the numerous cases cited in 36 L. R. A. (n.s.) it obviously appears that the child is, for

school purposes, a resident of the district where she resides with her grandmother and should be legally included in the school census of that district. That being true the allowance granted the father by another school district, where he resides, for the child's schooling is without authority of law. See: 56 C. J., sec. 986, pages 809-810.

That the power of school boards to expend school funds to provide schooling for children is confined to school children resident in the particular district is too elementary to require discussion or citation of authorities.

Your position in the matter is hereby confirmed.