

## No. 206

**INDIAN DEPARTMENT AID TO COMMON SCHOOLS FOR  
INDIAN STUDENTS—PROPER PROCEDURE—TRANS-  
FER OF FUNDS—SCHOOLS**

**Held:** Moneys granted by Indian Department to aid in the education of Indian students should be paid to district or county of residence of Indian student. When such eligible high school student transfers to high school outside county of residence, then apportioned amount per pupil will be transferred, as provided by Chapter 217, Laws of 1939, and Chapter 131, Laws of 1941. When Indian funds have been paid direct to high school district where Indian students have been transferred, the resident county of such Indian student may transfer only such additional funds per pupil as will equal with government grant the amount apportioned per eligible pupil by the superintendent of schools of the resident county as provided by law.

August 14, 1941.

Mr. John D. French  
County Attorney  
Lake County  
Polson, Montana

Dear Mr. French:

You have submitted the following question,

"Where eligible Indian high school students, residents of Lake County, make timely application to the county superintendent for transfer to attend high school in District No. 2, Sanders County, and where the Indian Department in furthering the education of such Indian students pays to the Sanders district the sum of \$90.00 per each student, what further payment, if any, should Lake County budget for and make to the said Sanders district?"

The fact is that, in counties wherein Indian reservations are located, the burden of educating such Indian students has been an economic problem for the reason most of the lands and properties within such reservations are not taxable. This throws, of necessity, an extra burden on the taxable property in such counties. The Federal Government has recognized this condition and—through the Indian Department—has in most such counties provided for the grant in aid to the school district affected. Under the facts as you have submitted them to me, it appears the grant from the government—through the Indian Department—should be made to the county high school or high school district wherein the Indian student resides. The trustees of the resident district would take this amount into consideration in its budget as anticipated revenue. Then, when such student is transferred to a high school outside the county, the average amount per pupil as determined by the county superintendent should then be transferred as provided by Chapter 217 of the Laws of 1939, and Chapter 131 of the Laws of 1941.

It is elementary the public school system of the state of Montana is to be conducted not for profit to a school district, but for the greatest benefit of the school children, the taxpayers and the sovereign state. All through our school laws runs the public policy that—in the education of the youth of the state—one school district may not profit financially from another school district. The maximum in cooperation between all agencies is necessary to reach the desired results in education.

Under the facts as you have given them, equity and justice and public policy all dictate the answer. It is therefore my opinion that, where the federal government through the Indian Department makes a grant for the education of Montana Indian students, such money should be paid to

the State Board of Education for administration, as provided by Section 5668.15, Revised Codes of Montana, 1935, and by said board distributed to the proper district or county, or, when such grant is made direct, it should be made to the district or county of the residence of the Indian students affected. Where, as in the instant case, the money has been paid by the Indian Department to another county than the residence of the Indian student, then—in transferring of funds by the resident county—only such additional funds may be transferred as will equal, with the government grant, the amount apportioned by the county superintendent per eligible pupil by the resident county as provided by law.

Sincerely yours,

JOHN W. BONNER  
Attorney General