

Opinion No. 170.**Schools and School Districts—State
Institutions—Census, school.**

Held: The names of children in state institutions are carried on the records of the census of the school district where they last resided, before attending the state institution, and where their parents reside. The state's apportionment of moneys to the various counties for the use of the public schools is made on the basis of "classroom units and pupil attendance" and the counties apportion their public school money to the various school districts on the basis of the school census, which includes children in state institutions who are residents of the districts.

January 26, 1944.

Miss Elizabeth Ireland
State Superintendent of Public
Instruction
State Capitol
Helena, Montana

Dear Miss Ireland:

You have submitted for my opinion the following inquiry:

"When children are sent to a state institution such as the State Orphans Home, Twin Bridges; The Montana School for the Deaf and Blind, Great Falls; the School for the Deaf and Dumb, Boulder; the Vocational School for Girls, Helena; and the Vocational School for Boys, Miles City, should their names remain on the census record of the county from which they were transferred, and, if so, should county and state apportionment be drawn to the school district of the residence of the children mentioned above?"

In answering your inquiry concerning the school census record of the county, it is necessary to consider the provisions of Section 1051, Revised Codes of Montana, 1935, which provides in part:

"The Clerk of the school district shall make annually between the 15th day of September and the 15th day of October of each year an exact census of all children and youths between the ages of six and twenty-one years residing in the district. The term 'residing' as used in this section shall be defined in such a way as to include (1) children residing with their parents or guardians in such district, (2) children temporarily residing outside of such district for the purpose of attending any district school or county high schools or other public institution of learning or any benevolent or private institution, providing that parents of resident children of any district must be residing in the district on the first day of October and provided further, that the resident children themselves must have been actual residents of the district immediately previous to such outside residence."

It is apparent, from the foregoing quotation, children in public institutions who, before attending the public institutions, resided in the district and

whose parents reside in the district are, for the purpose of the school census, considered residents of the district and their names should remain on the records.

You have also asked whether the county and state apportionment should be drawn to the school district of the residence of children who are in state institutions.

The state's contribution to the counties for the use of the public schools is distributed under the provisions of Section 1200.8, Revised Codes of Montana, 1935, which provides:

"Likewise not later than August 15th of every year, and upon the basis of the classroom units and pupil attendance of the several counties, as certified to him by the several county superintendents of schools, the state superintendent of public instruction shall set up an apportionment under sections 1200.1 and 1200.2 for the proportionate distribution of the moneys to be contributed by the state public school general fund to the counties for the use of the public schools of such counties, and shall forthwith certify such apportionment to the treasurer of the State of Montana for payment."

Under the provisions of this section the measure of the state's contribution and apportionment to the counties is determined by the "classroom units and pupil attendance" and not by the school census. In other words, the state will contribute to the county school fund on the basis of attendance in the schools.

The apportionment of the counties to the various school districts is made by virtue of the provisions of Section 1204, Revised Codes of Montana, 1935, which provides in part:

"All school moneys apportioned by county superintendents of common schools shall be apportioned to the several districts in proportion to the number of school census children between six and twenty-one years of age as shown by the returns of the district clerk for the preceding school census."

The school census is determinative of the proportion each school district is entitled to receive of the county school money.

It is therefore my opinion the names of children in state institutions are car-

ried on the records of the census of the school district where they last resided, before attending such state institution, and where their parents reside. The state's apportionment of moneys to the various counties for the use of the public schools is made on the basis of "class-room units and pupil attendance" and the counties apportion their public school money to the various school districts on the basis of the school census which includes children in state institutions who are residents of the districts.

Sincerely yours,
R. V. BOTTOMLY
Attorney General