

CHAPTER 132

ADMISSION AND ATTENDANCE

132.01 ADMISSION TO PUBLIC SCHOOL; AGE LIMITATIONS; PUPILS.

HISTORY. 1865 c. 13 s. 19; G.S. 1866 c. 36 §. 72; 1873 c. 1 ss. 1, 14, 16; 1877 c. 74 subc. 1 s. 1; 1877 c. 74 subc. 2 s. 14; G.S. 1878 c. 36 ss. 1, 32; G.S. 1894 ss. 3648, 3692; R.L. 1905 s. 1279; G.S. 1913 s. 2670; 1921 c. 61; G.S. 1923 s. 2741; M.S. 1927 s. 2741; 1941 c. 169 art. 12 s. 1.

The maintenance of a public school system is a matter of state and not of local concern. *State v Erickson*, 190 M 216, 251 NW 519.

The word "resides" is used in the broad sense of being an inhabitant as distinguished from the more restricted sense of domicile, and children of proper age inhabiting an orphan home in a school district are entitled to free education therein. *State ex rel v School Board*, 206 M 63, 287 NW 625.

"Residence" differs from "domicile" in that "residence" simply requires bodily presence as an inhabitant in a given place, while "domicile" requires bodily presence in that place and also an intention to make it one's domicile. *In re Campbell*, 216 M 119, 11 NW(2d) 786.

The children of an orphanage have a legal right to attend school without the payment of tuition. OAG April 17, 1933.

Dependent children placed in homes in school districts are entitled to tuition and transportation from those districts. OAG Oct. 28, 1937 (169g).

Residents of Camp Ripley may vote at town and school elections, and children living thereon are entitled to the same treatment as other pupils with respect to transportation. OAG June 1, 1938 (490k).

The board of a common school district may pay transportation and tuition of kindergarten pupils over five years of age to an independent district where no class is maintained for them in their own district. OAG April 28, 1939 (169k).

The board may exclude pupils for immoral conduct where morals of other pupils are endangered, but such danger must be real and in fact exist. OAG Feb. 10, 1938 (169i).

Where persons reside on the dividing line, they may choose which district to attend and which to claim their rights. OAG Jan. 17, 1944 (169p).

132.02 ATTENDANCE NEARER SCHOOL.

HISTORY. 1911 c. 342 s. 1; G.S. 1913 s. 2751; G.S. 1923 s. 2823; M.S. 1927 s. 2823; 1937 c. 302 s. 1; M. Supp. s. 2823; 1941 c. 169a 12' s. 2.

School boards are without authority to send transportation buses outside their districts and pay the expenses incident thereto. OAG Oct. 10, 1933.

The board cannot pay tuition in another state. OAG Jan. 17, 1938 (180d).

The mandatory duty to pay tuition cannot be defeated by the technical failure to follow the procedure. OAG June 30, 1938 (180g).

The transportation of pupils does not relieve the board from paying tuition. OAG Sept. 12, 1938 (166a).

"Nearest traveled road" means "nearest traveled public road." OAG May 23, 1939 (180d).

"Nearest traveled road" is computed by beginning at the dwelling, thence along the route normally taken in order to reach the highway, and thence along the highway to the school house. OAG March 24, 1939 (166a-10).

Arrangement of one school district to pay tuition to another district includes payment for the full term of the school at which the students were in attendance. 1942 OAG 58, June 9, 1941.

Where a pupil is in attendance in a school other than his own, the district where he is temporarily sojourning is in no way obligated to pay. The obligation rests on the district of the pupil's residence. OAG Sept. 14, 1944 (180g).

Attendance at nearest school. OAG Oct. 4, 1944 (180g); OAG Nov. 25, 1944 (180).

132.03 ATTENDANCE; HIGH SCHOOL IN ADJOINING STATE.

HISTORY. 1927 c. 135 ss. 1, 2; M.S. 1927 ss. 2823-2, 2823-3; 1933 c. 144; M. Supp. s. 2823-3; 1941 c. 169 art. 12 s. 3.

132.04 SCHOOL CENSUS.

HISTORY. 1911 c. 356 s. 7; 1913 c. 548 s. 1; G.S. 1913 s. 2985; G.S. 1923 s. 3086; M.S. 1927 s. 3086; 1939 c. 189; M. Supp. s. 3086; 1941 c. 169 art. 12 s. 4.

In taking census, minors are to be counted at the place of the residence of the parents. OAG June 10, 1933.

Whether adults, including students and temporary employees, should be counted in census in a place where they are not living is a question of fact dependent upon their intention to return. OAG June 10, 1933.

A wife leaving her husband and going to another district should be counted in taking census of the district at which the husband resides. OAG June 10, 1933.

This section applies to children under five years of age and to married persons between the ages of 16 and 21. OAG-June 24, 1939 (56B).

In relation to limitation on tax levy in a school district, the word "population" means the entire population, and has nothing to do with census of school attendance. OAG Nov. 20, 1944 (519).

132.05 COMPULSORY ATTENDANCE.

HISTORY. 1911 c. 356 s. 1; G.S. 1913 s. 2979; 1919 c. 320; 1923 c. 78; G.S. 1923 s. 3080; M.S. 1927 s. 3080; 1941 c. 169 art. 12 s. 5.

The language of the home rule charter of Minneapolis, by fair implication, confers upon the board of education of the city the power to make and enforce administration rules which exclude children from school who are a menace to their associates. *State ex rel v Probst*, 165 M 361, 206 NW 642.

School board need not regard a certificate of illness signed either by a medical doctor, a chiropractor, or an osteopath as sufficient evidence as to a child's bodily condition as regards excusing a pupil from attendance. OAG Feb. 4, 1932.

It is mandatory on the part of the school board to excuse pupils from school on such days as the child attends upon instructions according to the ordinances of the church that the child attends. OAG Feb. 19, 1935 (169a).

Under Minnesota law, parent must provide for education of minor child, and such duty is not limited to providing minimum amount of education necessary to avoid penal liabilities for neglect. *Mairs v Reynolds*, 120 F(2d) 857.

Outline of procedure to enforce attendance of pupil. Penalty assessed against parent. 1938 OAG 218, Nov. 23, 1937 (169h).

A person under 16 years of age who has completed the eighth grade course may be compelled to attend high school. 1938 OAG 219, Nov. 29, 1937 (169b).

Religious instruction, determinatoin as to what constitutes a church. 1940 OAG 63, Oct. 10, 1940 (169o).

The qualifications of a teacher to give private instruction may be inquired into. OAG Feb. 1, 1944 (169b).

On the question of a pupil's health, the certificate of a physician is not requisite. Such certificate is merely evidence together with other evidence, upon which the school board must base their decision. OAG Oct. 27, 1944 (169m).

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132.06 DUTIES OF SCHOOL BOARD AND TEACHERS.

HISTORY. 1911 c. 356 s. 2; G.S. 1913 s. 2980; G.S. 1923 s. 3081; M.S. 1927 s. 3081; 1941 c. 169 art. 12 s. 6.

132.07 COMPULSORY ATTENDANCE; HOW ENFORCED.

HISTORY. 1911 c. 356 s. 3; G.S. 1913 s. 2981; 1921 c. 488; 1923 c. 73; G.S. 1923 s. 3082; M.S. 1927 s. 3082; 1941 c. 169 art. 12 s. 7.

If the parents neglect or refuse to comply with the notice to send their child to school, the superintendent should notify the county attorney, whose duty it is to prosecute the parents for a misdemeanor. OAG Nov. 23, 1937 (169b).

132.08 DUTIES AND POWERS OF INDUSTRIAL COMMISSION.

HISTORY. 1911 c. 356 s. 6; G.S. 1913 s. 2984; G.S. 1923 s. 3085; M.S. 1927 s. 3085; 1941 c. 169 art. 12 s. 8.

132.09 TRUANT OFFICERS.

HISTORY. 1899 c. 226 s. 2; 1901 c. 156 s. 1; R.L. 1905 s. 1448; 1911 c. 284 s. 1; G.S. 1913 s. 2986; G.S. 1923 s. 3087; M.S. 1927 s. 3087; 1941 c. 169 art. 12 s. 9.

132.10 SCHOOLS FOR TRUANTS AND DELINQUENTS.

HISTORY. 1899 c. 226 s. 3; R.L. 1905 s. 1449; 1909 c. 400 s. 5; G.S. 1913 s. 2987; 1917 c. 239; s. 1; G.S. 1923 s. 3088; M.S. 1927 s. 3088; 1941 c. 169 art. 12 s. 10.

132.11 INVESTIGATION AND AID TO CHILDREN.

HISTORY. 1921 c. 429 s. 1; G.S. 1923 s. 3090; M.S. 1927 s. 3090; 1941 c. 169 art. 12 s. 11.

132.12 REPORTS; CHILDREN RECEIVING AID.

HISTORY. 1921 c. 429 s. 2; G.S. 1923 s. 3091; M.S. 1927 s. 3091; 1941 c. 169 art. 12 s. 12.

132.13 OFFICERS, TEACHERS; NEGLIGENCE OF DUTY; PENALTY.

HISTORY. 1911 c. 356 s. 5; G.S. 1913 s. 2983; G.S. 1923 s. 3084; 1941 c. 169 art. 12 s. 13.

132.14 VIOLATIONS; PENALTIES.

HISTORY. 1899 c. 226 s. 5; 1901 c. 156 s. 2; R.L. 1905 s. 1451; G.S. 1913 s. 2989; G.S. 1923 s. 3089; M.S. 1927 s. 3089; 1941 c. 169 art. 12 s. 14.