

right and privilege of pupils to attend high school at public expense is as definite and broad as the right of pupils to attend elementary school.

It is fundamental that the laws should be construed to carry out the intent of the legislature, and equally fundamental that it will be conclusively presumed that any law enacted by a legislature is in furtherance of applicable constitutional mandates.

It is a well known principle of law, supported by many authorities, that boards of education and similar statutory boards have such powers only as are granted to them by statute. With this principle in mind, a former Attorney General was prompted to hold in an opinion found in Opinions of the Attorney General for 1922, at page 1068:

“Under existing law, there is no authority for a board of education conducting a high school to refuse to admit to the high school conducted by it any pupil holding a diploma showing completion of the elementary school work, where such pupil’s tuition is paid or will be paid.

Where boards of education refuse to pay tuition already past due, the remedy of the creditor board of education is in an action in the courts for the amount accrued.”

I am therefore of the opinion, in specific answer to your questions, that:

1. Where, by reason of the assignment made in pursuance of Section 7764, General Code, or otherwise, a school pupil is entitled to admission to a high school, and is entitled under the law to attend that high school at public expense, the authorities in charge of the said high school must admit the pupil to said school and allow him all the advantages of the school the same as other pupils in the school regardless of whether or not his tuition is paid in advance, and even if it is probable that it will be necessary to bring suit to enforce collection of the tuition.

2. A board of education is not authorized to enforce collection of moneys due it for tuition from other districts on account of the attendance in its schools of high school pupils residing in the other districts liability for which is fixed by Sections 7747 and 7748, General Code, by withholding from said pupils the privilege of attending school until such tuition is paid.

3. Boards of education are limited, in the collection of foreign tuition which has accrued on account of the attendance of high school pupils in the schools of its district, to an action in the courts for the collection of the amount accrued.

Respectfully,

JOHN W. BRICKER,
Attorney General.

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APPROVAL, NOTES OF McARTHUR-HUNTSVILLE VILLAGE SCHOOL DISTRICT, LOGAN COUNTY, OHIO—\$3,459.00.

COLUMBUS, OHIO, March 30, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.