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March 16, 1976

Declaratory Ruling #7
(Cite as 1 D.P.I. Declaratory Ruling 15)

Robert A. Clough, Ed.D.
Superintendent of Schools
Mason City Community School District
120 East State Street
Mason City, Iowa 50401

Dear Dr. Clough:

Your Petition for Declaratory Ruling was filed in my office on March 3, 1976. In it you raise two questions regarding Section 301.1, The Code 1975, as amended by 1975 Session, 66th G.A. Chapter 153, Section 12. That section now reads as follows:

301.1 Adoption - purchase and sale. The board of directors of each and every school district is hereby authorized and empowered to adopt textbooks for the teaching of all branches that are now or may hereafter be authorized to be taught in the public schools of the state, and to contract for and buy said books and any and all other necessary school supplies at said contract prices, and to sell the same to the pupils of their respective districts at cost, loan such textbooks to such pupils free, or rent them to such pupils at such reasonable fee as the board shall fix, and said money so received shall be returned to the general fund.

Textbooks adopted and purchased by a school district may be made available to pupils attending nonpublic schools upon request of the pupil or the pupil's parent under the same terms as made available to pupils attending public schools.

The specific questions you raise are as follows:

If the public school district in which the nonpublic high school is located elects to furnish textbooks to students residing in the public school district and attend the nonpublic high school, does such action obligate the public high school to furnish texts to pupils attending the same nonpublic school who are resident in other public school districts?

Secondly, does this paragraph limit the public school district to furnishing textbooks that have been officially adopted by the board and are currently in use by the public school district?

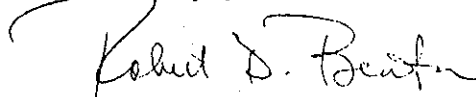
The answer to the first question appears to be in the negative. Generally, the authority of a board of directors extends only to resident pupils. See Sections 274.1 and 279.8, The Code 1975. An example of express authority to provide services for nonresident students appears in Section 271.178. That Section, as amended by 1975 Session, 66th G.A., Chapter 79, Section 15, now reads in part as follows:

Every public school district in Iowa shall offer or make available to all students residing in the school district or Iowa students attending a nonpublic school in the district an approved course in driver education.

In the absence of such express authority to provide textbooks for nonresident students, the most logical view is that Section 301.1 refers only to resident pupils of the district. This view is further substantiated by the language contained in the statute in question. The first paragraph of Section 301.1 as amended authorizes school districts to sell, loan or rent textbooks to "pupils of their respective districts."

The answer to the second question appears to be in the affirmative. The first paragraph of Section 301.1 authorizes the board of directors to "adopt textbooks" and "to buy said books." The new second paragraph authorizes the board of directors to make available to nonpublic pupils or their parents "textbooks adopted and purchased by a school district." The logical result is that the only textbooks available to nonpublic students are those officially adopted, and purchased by the board of directors and in current use or are available for use in the public school district.

Sincerely yours,



Robert D. Benton, Ed.D.

State Superintendent of Public Instruction

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