

**OPINION
48-116**

May 13, 1948 (OPINION)

EDUCATION

RE: Public Funds - May Not Be Paid to Sectarian Schools

This is in reply to your letter of May 12, 1948, enclosing a letter from Mrs. Margaret Deserly, an Indian woman of Sanish, North Dakota.

The question presented is whether or not your department may pay tuition to a parochial school from funds allotted to the state by the federal government for educational privileges for Indians.

Some time ago your department entered into an agreement with the federal government whereby the federal government would pay to your department in one lump sum the funds to be expended for the education of Indians of school age in the state. This was done for convenience and to facilitate the handling of these funds. That is, the Department of Public Instruction would disburse these funds to the several school districts instead of such funds being disbursed by the federal government.

Under the terms of the contract, the educational privileges to be furnished to Indians by the state were enumerated as follows:

Education for Indian children in the public elementary schools, public secondary schools, junior or senior colleges, special schools, vocational or trade schools of a State contracting for education of Indian children, shall be provided upon the same terms and under the same conditions as to all other citizens of the State."

We believe that the foregoing quotation from the specifications in the contract answers your question. you will note that the schools referred to are public elementary schools, public secondary schools, junior or senior colleges, special schools, vocational or trade schools of the state.

From the language thus employed it seems clear that the state is committed to the furnishing of school privileges for Indians in the schools of the state only, and, therefore, your department would have no right to expend these funds in the payment of tuition to private or parochial schools. The funds are paid over to your department to be disbursed to the several state schools which provide educational privileges for Indians, and that of course necessarily implies that this money could not be disbursed in payment of tuition or other items to a private or parochial school.

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