Tenure Act and school ordinances and rendered moot the issues raised by the former supervisor as to the abolition of her former position. The appeal is therefor dismissed. Henderson v City of St. Paul, 236 M 353, 53 NW(2d) 21.

If a teacher is uncertain as to the effect of signing a statement of intention as to teaching the following year, tenure being involved, a justiciable controversy exists. Minneapolis Federation of Men Teachers v Board, ... M ....., 55 NW(2d) 203.

130.26 HEARING OF CHARGES AGAINST TEACHERS

Where board of education granted a teacher leave of absence until the date of his 55th birthday and accepted resignation effective as of such date, until such date the teacher was still employed by the board, and a member of the teachers retirement association and was on Feb. 1, 1945, though on leave of absence, entitled to the benefits conditioned on membership. Bartlett v Duluth Teachers' Fund, 224 M 522, 28 NW(2d) 740.

Provisions in the Teacher Tenure Act and the school code of the city of St. Paul relative to abolition of a position, filing of charges, and hearing of evidence in connection therewith, are material only where a teacher has been discharged from her employment or has been transferred to a position involving a demotion in rank or salary. Henderson v City of St. Paul, 236 M 353, 53 NW(2d) 21.

130.32 SERVICES TERMINATED BY DISCONTINUANCE OR LACK OF PUPILS; PREFERENCE GIVEN

Where a former supervisor of special classes in the department of education, who had been transferred to position of principal of girls occupational school, was assigned to an additional principalship after rendition of a judgment directing that she be restored to her former position or given employment in some other position for which she was qualified at the same annual salary, and as a result of such assignment her salary exceeded that received in her former position and evidence established that the new position was equal if not superior in rank to the former position, the additional assignment constituted full compliance with the Teacher Tenure Act and school ordinances and rendered moot the issues raised by the former supervisor as to the abolition of her former position. The appeal is therefor dismissed. Henderson v City of St. Paul, 236 M 353, 53 NW(2d) 21.

Where, as in Duluth, certain courses of study in the Duluth Junior College will be discontinued because of a branch of the University of Minnesota, teachers having tenure may be deprived of that right because of discontinuance of her position, or lack of pupils. Before the board concludes that such position may be discontinued, or that there is a lack of pupils for the teacher to instruct, the teacher because of her tenure has a right to be heard and to urge that the board shall not so conclude. If, after such hearing, the board decides on the evidence that grounds do exist, the policy to be followed in exercising the power of the board in determining what teachers are to be discharged is an executive function over which the courts can exercise little or no control. OAG Aug. 3, 1948 (172).

CHAPTER 131

SCHOOLS; CLASSIFICATION, CONDUCT

131.01 PUBLIC SCHOOLS

HISTORY. 1915 c 238 s 11; 1919 c 443; 1921 c 467 s 5, 18; GS 1923 s 2764, 3026; 1925 c 282; 1925 c 413; MS 1927 s 2764, 3026; 1929 c 190 s 1-4; 1935 c 214; 1935 c 288 s 1; 1941 c 169 art 11 s 1; 1947 c 633 s 16; 1949 c 732 s 9; 1953 c 371 s 1.

Validity of requirement that children of Mexican or Latin descent attend separate schools. 30 MLR 646.

Where district "A" is an urban school district maintaining a high school and district "B" is also urban maintaining a graded elementary school and district "C" and "D" are rural school districts in voting on consolidation requires that each of the urban districts vote and their vote is counted separately while the two rural districts vote as one unit and their votes are so counted. OAG Nov. 10, 1949 (166-E-4).

The Minnesota statute is silent insofar as it gives specific power to a common school district to maintain a kindergarten, although it does grant power to an independent school district to maintain one. The statute authorizes school boards to select courses of study and when a kindergarten course is provided in a common school district and such action is not prohibited by law, it is presumed to have exercised its power rightfully. The power of the legislature to impose a system of public school education upon local communities is not limited to the common branches. A common school district is therefore authorized to maintain a kindergarten. This supersedes the opinion of April 9, 1941, filed 169-K. OAG Oct. 21, 1949 (169-K).

The board may establish a two year high school department to teach vocational subjects without, at the same time furnishing academic subjects sufficient to constitute a complete two year high school course. OAG Nov. 6, 1947 (170-C).

In view of the completeness of the statutory definitions no implication need be indulged in construing and applying section 131.01. OAG May 28, 1951 (170-C).

131.07 TRANSPORTATION OF JUNIOR COLLEGE STUDENTS

A school district furnishing transportation for pupils is not required to furnish separate transportation for an individual pupil who does not present himself in conformity with the bus schedule. OAG March 19, 1953 (166-A).

131.09 BLIND CHILDREN, SPECIAL CLASSES

HISTORY. Amended, 1951 c 15 s 1.

131.12 SPECIAL CLASSES; CRIPPLED CHILDREN

HISTORY. Amended, 1949 c 393 s 1.

There is no statutory authority for a county to expend funds to place a spastic child in an out-of-state school. OAG Nov. 15, 1951 (169-D).

131.14 INSTRUCTION IN MORALS

A school board may permit the display of the Ten Commandments on the walls of public schools for the purpose of moral instruction, as distinguished from sectarian or religious teaching. OAG June 24, 1952 (170-F-2).

131.17 INSTRUCTION, USE OF ENGLISH LANGUAGE

HISTORY. 1873 c 1 s 14, 16; 1877 c 74 t 2 s 14; 1881 c 41 s 5; 1941 c 169 art 11 s 17.

131.21 LENGTH OF SCHOOL TERM

To share in the distribution of state aid, a school year of nine months or 36 weeks is required. OAG Jan. 12, 1948 (168-C).

131.24 SCHOOL SAFETY PATROLS

HISTORY. Amended, 1953 c 128 s 1.

A school district is not liable in tort for injuries received by a pupil while acting on the school patrol. OAG July 12, 1950 (844-F-5).

The council of the city of Bemidji has authority to close a store adjacent to a parochial school at prescribed periods and for the protection of the children attending school. OAG Nov. 14, 1952 (396-C-3).

131.26 INSURANCE LAWS NOT APPLICABLE TO CERTAIN ASSOCIATIONS

HISTORY. 1949 c 94 s 1.

CHAPTER 132

ADMISSION AND ATTENDANCE

132.01 ADMISSION TO PUBLIC SCHOOLS; AGE LIMITATIONS

HISTORY. 1862 c 1 s 1; 1865 c 13 s 19; 1873 c 1 s 2; 1877 c 74 t 1 s 1; 1877 c 74 t 2 s 14; 1881 c 41 s 5; 1921 c 61; 1941 c 169 art 12 s 1.

The school board has power to make its own rules relating to procedure at board meetings. The board may adopt rules for admission of children who become six years of age after commencement of the school year. OAG Oct. 16, 1951 (161-B-11).

The law requires admission to all public schools shall be free to all persons between the ages of five to twenty-one years, in the district where such person resides. Unless excused, such pupil is compelled by law to attend such school. No school can lawfully require such pupil to pay fees conditioned to his attendance. School districts which receive state aid are required to furnish free textbooks so no rule should require the payment of book rental. A deposit may be required in the nature of security. There is no objection to voluntary contribution of laboratory fees but they cannot be compelled. There is no obligation on the part of the school board to furnish towels for pupils. If the district has a rule under which the rules are made available to the pupils the use is optional. The district cannot require a pupil to use the district towels; he may use his own. OAG June 24, 1952 (169).

Where a city of the first class owned and operated a water pumping station in an adjoining county, the children of the families residing on the pumping station property are deemed to be residents of the school district wherein the pumping station is located. OAG Aug. 28, 1947 (169-P).

The law imposes upon the school board of the district the business of management. Although the children in the instant case reside on property owned by the city of St. Paul they are, in fact, residents of school district No. 23, and the duty devolves upon the trustees of school district No. 23 to place the children in school so as to comply with the compulsory education section 132.05. OAG Aug. 28, 1947 (169-P).

132.02 ATTENDANCE; NEARER SCHOOL

Children not residents of a city or village and residing more than two miles from the district schoolhouse may attend school in an adjoining district upon such terms as may be fixed by the school board of the adjoining district. This does not apply where free transportation is furnished by the home district. OAG Jan. 28, 1948 (166-A-3) (180-G).

Where children living in district No. 66, not within the limits of any incorporated city or village, or more than two miles by the nearest traveled road from the district schoolhouse, and their residence is nearer to the schoolhouse in district No. 79, and if no school is being maintained in district No. 79, pupils in district No. 79 are transported to district No. 17. Upon such reasonable terms as shall be fixed by the school board in district No. 79 the pupils described as living in district No. 66 may avail themselves of the school service furnished by district No. 79, including transportation to district No. 17 and instruction therein. District No. 66 is required to pay the tuition for these children to district No. 79; but if transportation to