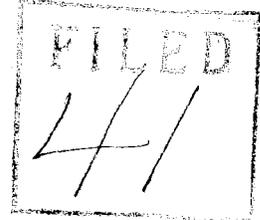


SCHOOLS:-Under Section 9292, R. S. Mo. 1929, unless district contains three or more resident pupils eligible to take ninth and tenth grade work, board may not furnish teaching for ninth and tenth grades

5-14
May 1, 1934.

Mr. Lawrence Holman,
Prosecuting Attorney,
Moberly, Missouri.



Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"One of the rural school districts in this County has, for a number of years, maintained ninth and tenth grade work, I suppose under Section 9292, Revised Statutes, 1929. During the past year there have been only two resident pupils in these grades, although there have been some six or seven from other districts taking advantage of this work.

At the present time it appears that there will be no resident pupils attending either of these grades next year, although there probably will be a number from adjoining districts.

A number of the taxpayers of the district came to me a short time ago and asked for an opinion as to whether or not the school board could legally continue to maintain these grades, under the above state of facts, and I wrote them an opinion to the effect that the board could not maintain this work for the reason that there were not at least three resident pupils eligible for said additional school work. Others interested have asked that I obtain your opinion on this question and I am therefore submitting this request for an opinion from your office, as to whether or not a district school can maintain ninth and tenth grade work when there are less than three resident pupils."

Section 9292, R. S. Mo. 1929, among other things, provides:

"Whenever a school district within this State contains three or more children who

have completed the eight elementary grades of school work, the board of directors may provide for the teaching of the ninth and tenth grade work. If the board of directors of the school district, after being requested to provide for the teaching of the ninth and tenth grades, refuse, then upon the filing of a petition twenty days before the annual school meeting with the clerk of the district, signed by ten or more qualified voters residing in said school district, directed to said board of directors, the board of directors shall submit the question at the annual school meeting, and if carried by a majority vote, the school board shall provide for the teaching of said grades.*****

As we interpret the above section, it is only where the school district contains three or more children who have completed the eight elementary grades that the district has the privilege of teaching the ninth and tenth grades. The above section provides that where there are three or more children in the district who have completed the eighth grade, the directors may provide for the teaching of the ninth and tenth grades. That provision leaves it purely optional with the board as to whether or not the ninth and tenth grades shall be taught. The section further provides, however, that upon a failure of the board to provide for the teaching of the ninth and tenth grades, after being requested so to do, that an election shall be held and if carried the ninth and tenth grades shall be taught.

Since there will be no children, residents of the district, who are qualified to take the ninth and tenth grade work next year, we do not believe that it is proper for the board to furnish teaching for the ninth and tenth grades. The fact that there are children from other districts who will attend school does not authorize the teaching of these extra grades, as we believe that it is only where there are three resident students eligible to take the ninth and tenth grades that the board may furnish the higher instruction.

It is therefore the opinion of this Department that the district must contain three or more children as residents who have completed the eight elementary grades of school work before the board may provide the teaching of the ninth and tenth grade work.

Very truly yours,

APPROVED:

FRANK W. HAYES,
Assistant Attorney General.

Attorney General.