

SCHOOLS: TRANSPORTATION:
COUNTY TREASURERS:

The board of education of a reorganized school district is not obligated to send all of the high school pupils within its district to the same high school, although the cost of transporting pupils to one high school may be somewhat greater than the same cost would be in sending such pupil to another high school. A county treasurer is not required to serve as treasurer of a six-member board school district.



February 23, 1955

Honorable Alden S. Lance
Prosecuting Attorney
Andrew County
Savannah, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"I request that your office render an opinion to me concerning the following question of law with respect to the transportation of a high school student. We have a reorganized district here in Andrew County which was formed under the reorganization law and which district is providing free bus transportation for its high school students to the high school located at Savannah, Andrew County, Missouri. This school district has one high school student who is presently enrolled in a high school in St. Joseph in Buchanan County, Missouri. This student is riding a bus which is owned and operated by the St. Joseph Light & Power Company of St. Joseph, Missouri; and the cost of transportation on this privately owned bus to a high school in an adjoining county is slightly more than the cost of transporting students located in the same locale who attend the high school at Savannah in Andrew County, Missouri. We would like to know whether or not the Board of Education of this reorganized district would be legally authorized to pay the excess transportation costs required to transport this student to the neighboring high school in a neighboring county.

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"I further request an opinion as to whether or not the treasurer of a third class county such as Andrew County is legally required to act as treasurer for a six-member board district which has been formed under the following set of facts and circumstances. This six-member board district was formed by a number of common school districts which simply annexed to each other to form a larger district, having within its boundaries an incorporated village. After this enlarged common school district had been formed by the annexation of a number of smaller districts to each other, the large district started electing six members to its Board of Education. Section 165.010, R.S. Mo., 1949 states in Paragraph 3 that 'all districts governed by six directors and in which is located any city of the fourth class or any town or village shall be known as a town school district.' Sections 165.340 and 165.343 seem to indicate that town school districts shall appoint a treasurer who shall be bonded and who may receive up to \$50 per year as pay for his services. Would our County Treasurer be legally justified in refusing to act as treasurer for a six-member board district as described above without compensation and without being bonded?"

The law on the transportation of pupils which we deem to be applicable in your situation is found in Section 165.700, RSMo 1949, and reads:

"In all school districts enlarged under the provisions of sections 165.657 to 165.707, and in all school districts heretofore enlarged and which are hereafter approved by the state board of education as enlarged districts, the board of education is authorized to provide for the free transportation of pupils living more than one mile from any central school building and state transportation shall be granted to such districts in the amount and in the manner as provided in section 165.143."

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Section 165.143, RSMo 1949, referred to above, reads:

"When any school district makes provision for transporting any or all of the pupils of such district to a central school or schools within the district, and the method of transporting is approved by the state board of education the amount paid for transportation, not to exceed three dollars per month for each pupil transported a distance of two miles or more, shall be a part of the minimum guarantee of such district for the ensuing year. When the board of directors of any school district makes provision for transporting the high school pupils whose tuition it is obligated to pay, to the school or schools they are attending, and the method of transporting is approved by the state board of education, the amount paid for transporting such pupils, not to exceed three dollars per month for each pupil transported shall be a part of the state apportionment to such district for the ensuing year, if no part of the minimum guarantee of such district has been used to pay any part of the cost of transporting such pupils. When the board of directors of a district that admits nonresident pupils to its high school makes provision for transporting such pupils to such high school, and the method of transporting and the transportation routes are approved by the state board of education before the transportation is begun, the amount spent for transporting such pupils, not to exceed three dollars per month for each pupil transported shall be a part of the state apportionment to such district for the ensuing year, if no money apportioned to such district from any public fund or funds has been used to pay any part of the cost of transporting such pupils, except money apportioned to such district to pay the cost of transporting such pupils; provided, any cost incurred for transporting such pupils in excess of three dollars per month for each pupil transported may be collected from the district of the pupil's residence, if said cost has been determined in the manner prescribed by the state board of education; and provided further, that for the transportation of pupils

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attending private schools, between the ages of six and twenty years, where no tuition shall be payable, the costs of transporting said pupils attending private school shall be paid as herein provided for the transportation of pupils to public schools."

We call particular attention to the following part of Section 165.143, supra:

"When the board of directors of any school district makes provision for transporting the high school pupils whose tuition it is obligated to pay, to the school or schools they are attending, and the method of transporting is approved by the state board of education . . ." (Emphasis ours.)

It would appear at first glance that all of the pupils in a district would be sent to the most accessible, adequate school at as small an expense to the district as possible, and that in your situation the pupil who is now attending high school in St. Joseph should be sent with the other high school pupils in the district to the high school in Savannah, which would slightly reduce the total cost of transporting the high school students in the district. However, from the above-quoted portion of Section 165.143, RSMo 1949, it would appear that the law contemplated a situation in which transportation would be paid by the district although not all of the high school pupils from the same district would attend the same school, which is the situation in your case. We can see that in many situations, such as the limited facilities of schools, or of transportation, there might be good reason for sending the high school pupils from the same district to a different high school.

We also direct attention to Section 165.257 RSMo 1949, which reads:

"1. The board of directors of each and every school district in this state that does not maintain an approved high school offering work through the twelfth grade shall pay the tuition of each and every pupil resident therein who has completed the work of the highest grade offered in the school or schools of said district and

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attends an approved high school in another district of the same or an adjoining county, or an approved high school maintained in connection with one of the state institutions of higher learning, where work of one or more higher grades is offered; but the rate of tuition paid shall not exceed the per pupil cost of maintaining the school attended, less a deduction at the rate of fifty dollars for the entire term, which deduction shall be added to the equalization quota of the district maintaining the school attended, as calculated for the ensuing year, if said district is entitled to an equalization quota, if the district maintaining the school attended is not entitled to an equalization quota, then such deduction shall be added to the teacher quota of said district, as calculated for the ensuing year, but the attendance of such pupils shall not be counted in determining the teaching units of the school attended; and the cost of maintaining the school attended shall be defined as the amount spent for teachers' wages and incidental purposes. In case of any disagreement as to the amount of tuition to be paid, the facts shall be submitted to the state board of education, and its decision in the matter shall be final.

"2. Subject to the limitations of this section, each pupil shall be free to attend the school of his or her choice; but no school shall be required to admit any pupil, or shall any school be denied the right to collect tuition from a pupil, parent, or guardian, if the same is not paid in full as herein provided. In no case, however, shall the amount collected from a pupil, parent, or guardian exceed the difference between fifty dollars and the per pupil amount actually paid by the state, nor shall the amount the district of the pupil's residence is required to pay exceed the amount by which the per pupil cost of maintaining the school attended is greater than fifty dollars. If, for any year, the amount collected from a pupil, parent, or guardian exceeds the difference between fifty dollars and the per pupil amount actually paid by the state, the excess shall be refunded as soon as the fact of an overcharge is ascertained."

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We particularly note above that "subject to the limitations of this section, each pupil shall be free to attend the school of his or her choice . . ."

We believe, therefore, that in your case the board of directors may pay the cost of transporting the pupil to St. Joseph to high school, although such cost is "slightly more" than would be the cost of transporting such pupil to the high school in Savannah.

In response to your second inquiry, we enclose a copy of an opinion rendered by this department on September 21, 1949, to Honorable John P. Peters, Prosecuting Attorney of Osage County; also copy of an opinion rendered September 18, 1950, to Honorable H. Tiffin Teters, Assistant Prosecuting Attorney, Jasper County; also copy of an opinion rendered September 21, 1953, to Honorable Albert L. Hencke, Prosecuting Attorney of Franklin County. These opinions fully answer your second question regarding the treasurer of a third class county acting as treasurer for a six-member board school district.

CONCLUSION

It is the opinion of this department that the board of education of a reorganized school district is not obligated to send all of the high school pupils within its district to the same high school, although the cost of transporting pupils to one high school may be somewhat greater than the same cost would be in sending such pupil to another high school.

It is the further opinion of this department that a county treasurer is not required to serve as treasurer of a six-member board school district.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Yours very truly,

John M. Dalton
Attorney General

Enclosures - 9-21-49, John P. Peters
9-18-50, H. Tiffin Teters
9-21-53, Albert L. Hencke

HPW:vlw