

Authority of School Boards in Consolidated, High Schools and Schools having six directors to decide the location and erecting of new buildings. ✓

February 16, 1933



Hon. R. P. Stone,
Prosecuting Attorney,
Miller County,
Eldon, Missouri.

Dear Sir:-

Answering your letter of February 11th, 1933 requesting an opinion on the following,

"First:-Has the School Board of a consolidated School district, plenary power, to locate the site of any new building or buildings that may be required by such Consolidated District; without the consent of the qualified Voters of such district.

"Second:-Have the qualified Voters of a Consolidated School District the right to petition the School Board, for a re-location of any new Buildings, that may be required for such consolidated district; And if so, must the Board act on the petition and call an Election, so that the qualified Voters of such District may have a voice in the location or re-location of such building or buildings.

"Third:-Where Bonds, have been voted for the Building of a High School Building, in a Consolidated School District, how should the site or location of such building be determined."

There seems to be two distinct lines of law and decisions in regard to the school matters. One is on the High Schools or Consolidated or sometimes known as City Schools with the Board of Directors of six and Common schools generally referred to as County Schools with the Board of Directors of three.

In the Country Schools where the Board of Directors is three, it is my opinion the law is plain, that it would be a matter for the voters at their annual meeting to decide matters of location and the like but it is equally well settled that in High Schools, Consolidated Schools and City Schools, frequently referred to as six Directorate

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Schools, it is the reverse and the directors have the exclusive power in the control of such matters.

I have found by examination of the different statutes on this subject and the decisions under them that in the Six Directorate schools, the Board of Directors are supreme in the matter.

Quoting from Gladney et al vs. Gibson et al, 208 Appeal, l.c. 80, the matter is emphasized strongly as follows:

"The language of this section (now 9330 and the kindred section 9327) clearly indicates that it was the intention of the Legislature that in a common school (three director school district) district the authority to select a schoolhouse site be vested in the resident taxpayers of the district assembled in annual meeting but that in a city, town or consolidated district such authority be vested in the board of education."

And l.c. 85 of the same decision, the Court says:

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"In conclusion we may say that in view of the nature of city and town school districts, and the various statutes applicable thereto, it seems well nigh inconceivable that the Legislature intended that the question of selecting a high school site should be left to the qualified voters of such districts. As said above, elections held in such districts are required to be by ballot, and conducted as are elections for State and county officers; and the polls must be kept open from seven o'clock A.M. to six o'clock P.M. now Sec. 9341 (section 11251). No provision whatsoever is made by law for submitting at such an election the question of the selection of a schoolhouse site or the changing of such a site; nor does this appear practicable. To leave the matter entirely to the judgment of the qualified voters of the district, would mean that each voter would have the right to vote for any site that he might indicate. There is no provision in the law as to how a voter shall indicate on his ballot what site he is voting for. An effort to have each voter, of his own initiative, point out or describe the site of his choice, might well lead to utter confusion. And if the board of education should designate two or more sites, between which the voters are to choose, then the voters would be precluded from exercising their independent judgment in the matter, being confined to a choice between the sites submitted by the board. And for this there is no sanction in the law."

Therefore answering categorically, in view of my opinion of the law and the decisions;

First: That the Board of Directors has absolute or plenary powers to locate the site of any new building or buildings that may be required in the consolidated district without consent of the qualified voters of such district.

Second: Of course the voter has the right to petition on any matter but the school board is supreme and does not have to comply with the request of such petition.

Third: The location or site of such building should be determined by the Board of Directors as plainly shown by the foregoing decisions I have quoted freely from.

Respectfully submitted,

GEO. B. STROTHER
Assistant Attorney General

Approved:

ROY McKITTRICK
Attorney-General

GBS/mh