

SCHOOLS--ORGANIZATION OF BOARD- Law requiring board to be organized within four days not compulsory but merely directory. Three members of school board, in case of division of whole board, can call in County Superintendent who shall be considered a member of board for that purpose.

May 6th, 1933



Hon. Paul Stark,
Vice-President,
Board of Education,
Louisiana, Missouri.

Dear Mr. Stark:-

Answering your questions of recent date which letter was sent to us on advice of the Prosecuting Attorney of your County, wherein you desire a ruling on the subject as related to the Board of Education of Louisiana, Missouri.

1. If the Board meets within 4 days after election and appoints temporary chairman but does not complete its organization within the 4 days, does it have a right to go ahead and elect a President at a later meeting after the 4 day period has expired?
2. If the man, who was President of the Board of Education prior to the election for new school directors, refuses to call a meeting for the purpose of completing the organization of the Board by electing the new officers, can the Vice-President of the Board call said meeting?
3. If the person who is presiding at the meeting refuses to put the motion for election of the new officers, can a majority of the other members proceed to election of the new officers in spite of his refusal?"

Will say in answer to question No. 1, that the statute (New Section 9329, pp. 333. Session Acts 1931) says:

"Within four days after the annual meeting, the board shall meet, the newly elected members be qualified and the board organized by the election of a president and vice-president, and the board shall, on or before the fifteenth day of July each year, elect a secretary and a treasurer, who shall enter upon their respective duties on the fifteenth day of July; said secretary and treasurer may be or may not be members of the board. * * * A majority of the board shall constitute a quorum for the transaction of business. * * * When there

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is an equal division of the whole board upon any question, the county superintendent of schools, IF REQUESTED BY THREE MEMBERS OF THE BOARD SHALL CAST THE DECIDING VOTE UPON SUCH QUESTION, AND FOR THE DETERMINATION OF SUCH QUESTION SHALL BE CONSIDERED A MEMBER OF SUCH BOARD. The president and secretary, except as herein specified, shall perform the same duties and be subject to the same liabilities as the presidents and clerks of the school boards of other districts."

It is our opinion that the fact that the Board did not meet within the four days and PERMANENTLY ORGANIZE by electing a president and vice-president, is merely a failure to comply with the new Section 9329 (pp. 333-334, Session Acts 1931) of the Statute.

They could meet and organize AFTERWARDS JUST AS WELL AS BEFORE THE END OF THE FIRST FOUR DAYS as there is no penalty for failing to meet and organize within the four days; THE LAW IN THIS PARTICULAR IS MERELY DIRECTORY, NOT MANDATORY. State ex rel. Bird, 295 Mo. 344, l.c. 351-352.

It will be observed that three members can call in the County Superintendent of Schools to decide matters (in case three of the members request him) which law was enacted in Session Acts of 1931, pp. 333-334, so that (in case of a tie) he is for all practical purposes, a member of such Board.

Answering your second question if the former president of the Board of Education or the temporary chairman who was elected within the four days, refused to call a meeting of the Board for the purposes of completing the organization of the Board by electing the new officers, it is our opinion that the vice-president of the Board, if he is an old member or held over, can call a meeting of the Board. When assembled, they can elect the officers as provided in the Section above referred to.

Third, if the person who is presiding at the meeting refuses to put a motion for election of new officers, it is our opinion that the other members of the Board, if they constitute a majority of the Board may proceed to elect the president, vice-president and other officers such as secretary and treasurer.

Yours very truly,



GEO. B. STROTHER,
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General