

SCHOOLS: School District having received previous aid in erecting a school building will ~~not~~ be denied subsequent aid, under Section 9357, R.S. 1929, when in need of a new school building.

August 30, 1935. 8.31



Hon. L. O. Gillihan  
Prosecuting Attorney  
Daviness County  
Gallatin, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion which reads as follows:

"In connection with the location of a new High School building duly authorized by voters of the Gallatin School District, it has become necessary to obtain an opinion from your office construing section 9357, R. S. Missouri, 1929.

"I am enclosing herewith copy of letter received by me from Dean H. Leopard, President of the above school board, which is self-explanatory and fully sets out the difficulties of the present board and which explains the necessity of an opinion from your office."

Appended to your letter is a copy of the communication received from the President of the Board of Education, Consolidated District No. 8 of Gallatin, Missouri, which reads as follows:

"In connection with the location of the new High School building

authorized by the voters of the Gallatin School District (Consolidated District No. 8 of Daviess County) at the election of last week, the Board of Education is especially concerned with the interpretation to be given to Section 9357, R. S. Mo. 1929, which reads as follows:

"Whenever a district organized under the provisions of this article has secured a site of not less than five acres for the central high school building of said district and has erected thereon a suitable school building, suitable for a central school and containing one large assembly room for the meeting of the citizens of the district and has installed a modern system of heating and ventilating, the state shall pay one-fourth of the cost of said building and equipment: Provided, the amount thus paid by the state shall not exceed \$2,000 for any one district.'

"It had been the expectation of the board that the aid authorized by this statute would be available, as the building contemplated fulfills all the requirements of this section, including an assembly or community hall. However, it now develops that some years ago the Gallatin School district received this \$2000 on the theory that its present building met these requirements. This information was a surprise to the present board, since, while the present building has a study hall which evidently was approved as meeting the definition of an assembly room, it does not by any means conform to present conceptions of 'a large assembly room for the meeting of the citizens of the district', is wholly inadequate for that purpose, and has never been used as such. It is almost certain that it would not now be approved as meeting the statutory requirement.

"It was our intention to acquire a new tract of five acres on which to construct the new building, but we are now con-

fronted with the question, whether a district which builds a new building with the assembly hall and other facilities set forth in this section on a new and different site of five acres is barred from receiving aid under this section by reason of the fact that it has received it at some previous time in connection with another building and site. We have had considerable discussion of this question with representatives of the State Department of Education. No definite position has been taken by the Department on the question, and we are left in doubt as to whether we can count on receiving this aid.

"If we are denied aid under this section, the plans heretofore formulated for the location and construction of the new building will be materially interfered with, and we do not like to proceed in the acquisition of a site until we can determine whether this aid will be made available by acquiring a five acre tract.

"We would be glad to have your opinion on this question, and if you are in doubt as to the proper interpretation of this section, would appreciate it if you could secure an opinion from the Attorney General."

We direct your attention to Section 9357, R. S. No. 1929, relating to State aid given a school district when selecting a site for the central high school building which is to be erected upon said site within said district. The pertinent part of said section reads as follows:

"Whenever a district organized under the provisions of this article has secured a site of not less than five acres for the central high school building of said district and has erected thereon a school building, suitable for a central school and containing one large assembly room for the meeting of the citizens of the district and has installed a modern system of heating and ventilating, the state shall pay

one-fourth of the cost of said building and equipment: Provided, the amount thus paid by the State shall not exceed two thousand (\$2000.00) for any one district.  
\* \* \* \*

It is evident from a careful reading of the above section that whenever a district has organized under the provisions of Article IV, Chapter 57, R. S. No. 1929, that they will be entitled to receive State aid in the erecting of a school building upon a site of not less than five acres when the building that is erected contains one large assembly room for the meeting of the citizens of the district. It is also required that the building so erected has installed therein a modern system of heating and ventilating.

Since the passage of the Article, which includes Section 9357, supra, this Gallatin School District, which was organized under the provisions of this Article, claimed and received the two thousand (\$2000.00) dollar grant from the State of Missouri and this sum was paid on the theory that the Act had been complied with. The size of the site, the assembly room and the statutory building equipment were, at that time, found to be in compliance with the Statute or the two thousand (\$2000.00) dollars would never have been paid by the State of Missouri.

By the terms of the Statute the State pays to a school district, complying with the Article, not to exceed "two thousand (\$2000.00) for any one district." Here you have a school district, in the face of this limitation, asking if another two thousand (\$2000.00) dollars is available to them on a new building project, under the limitations of this Section. By no forced construction of the words above quoted could another two thousand (\$2000.00) dollars be available to them, as provided in this Section, and such is our opinion.

Very truly yours

WM. ORR SAWYERS  
Assistant Attorney General.

APPROVED:

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JOHN W. HOFFMAN, Jr.  
(Acting) Attorney General.

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