

SCHOOLS: Use of school property for purposes other than instruction to pupils is discretionary with the Board of Directors

January 15, 1936.

1-15



Dr. Irl R. Hicks  
President, Board of Education  
School District of Wellston  
6201 Lotus Avenue  
St. Louis, Missouri

Dear Doctor:

This is to acknowledge your letter as follows:

"The School District of Wellston, Missouri, is confronted with a problem concerning the use of its school buildings which is gradually becoming alarming.

"Numerous organizations are applying for use of the School for activities that have no connection with the school, and although I have read Sec. 9205, and believe from it that it is apparently within the discretion of the School Board to determine the use of the buildings, yet, I wonder if there is not some further limitation of the law in this respect. For instance, in the section above referred to (9205), I find, 'as will not interfere with the prime purpose to which such buildings, etc. are devoted.' This, of course, is some limitation but has this ever been interpreted by the Courts?

"The direct question now at hand deals with a local Townsend Club whose demands (not requests), if granted, would interfere with social and other extra school

functions, but not the regular school work. Does the quotation from the Statute above mean interference with the extra school functions, as well as the regular school work?"

Section 9269, R. S. Mo. 1929, provides in part as follows:

"The title of all school house sites and other school property shall be vested in the district in which the same may be located; \* \* \* \* \*"

While the title to all school sites is vested in the district, yet, Section 9205, R. S. Mo. 1929, provides as to the care and use of the schoolhouses and grounds. Said section provides in part as follows:

"The board of directors or board of education shall have the care and keeping of all property belonging to the district, \* \* \* \* \* The board shall keep the schoolhouses and other buildings in good repair, \* \* \* \* \* The board of directors, or board of education, having charge of the schoolhouses, buildings and grounds appurtenant thereto, may allow the free use of such houses, buildings and grounds for the free discussion of public questions or subjects of general public interest, for the meeting of organizations of citizens, and for such other civic, social and educational purposes as will not interfere with the prime purpose to which such houses, buildings and grounds are devoted: Provided, that at any annual or special meeting the use of the schoolhouse for any of the above purposes may by a majority vote of the qualified voters voting on the proposition be prohibited. Such prohibition shall remain in effect until

the next annual school meeting. Whenever any such application shall be granted and the use of such houses, buildings or grounds shall be permitted for the purposes aforesaid, the board of directors, or board of education, having charge of the same may provide, free of charge, heat, light and janitor service therein when necessary, and may make such other provisions, free of charge, as may be needful for the convenient and comfortable use of such houses, buildings and grounds for such purposes, or said boards of directors, or boards of education, may require all such expenses to be paid by the organizations or persons who are allowed the use of the houses, buildings and grounds. All persons upon whose application, or at whose request, the use of any schoolhouse, building, or part thereof or any grounds appurtenant thereto, may be permitted as herein provided, shall be jointly and severally liable for any injury or damage thereto which directly results from such use, ordinary wear and tear excepted: Provided, however, this article shall not apply to cities which have or may hereafter have 75,000 inhabitants or more."

Section 9284, R. S. Mo. 1929, provides in part as follows:

"The qualified voters assembled at the annual meeting, when not otherwise provided, shall have power by a majority of the votes cast: \* \* \* \* \*

"Fifth--To determine, by majority vote, whether or not the schoolhouse of the district may be used during the ensuing year for religious, literary or other purposes, or for the meeting of farmer or labor organizations, secret or otherwise.

\* \* \* \* \*

"

January 15, 1936.

A reading of the above sections shows that the title to schoolhouse sites is vested in the district in which same are located and that the board of directors of said district has imposed upon it the duty of caring for and keeping of all property. Provision is also made for the permitting of the use of said schoolhouse for various purposes when same will not interfere with the prime purpose to which the building is devoted.

The ultimate authority as to permitting the use of schoolhouses for purposes other than instruction of pupils between the ages of six and twenty years vests in the qualified voters of the district. However, the board of directors has a discretion in allowing or permitting the use of the schoolhouse, absent a vote, affirmative or negative, on the question by the voters. However, the board of directors cannot permit the use of the schoolhouse when such use interferes with the prime purpose for which the schoolhouse was devoted.

In your letter you state that a certain local club is demanding the right to use the schoolhouse, and please be advised that (absent an affirmative vote by the voters of the district) it is not mandatory upon the board of directors to grant any request unless said board desires to do so.

The prime purpose for which school sites and buildings are devoted is derived by virtue of the Constitution, namely, Article XI, Section 1, Constitution of Missouri, which provides as follows:

"A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years."

Schoolhouses are primarily for one purpose and that is to provide gratuitous instruction for persons between the ages of six and twenty years. However, the Legislature recognizes

January 15, 1936.

the right of the people of the district to the use of the schoolhouse when same is not being devoted for the purpose of giving gratuitous instruction.

From the above it is our opinion that, absent a vote on the part of the voters of the district, the board of directors has a discretion in the permitting the use of school property to other organizations or clubs or associations or persons when said schoolhouse is not being used for gratuitous instruction of persons between the ages of six and twenty years residing in said district. If the board of directors feels that the demands of the local club to use the schoolhouse will interfere with social and other extra school functions theretofore granted, then, in our opinion, said board of directors may refuse said local club the use of the school property if such be the desire and wish of said board. In other words, the board of directors has discretion to be exercised in permitting the use of the school property.

Yours very truly,

James L. HornBostel  
Assistant Attorney-General

APPROVED:

---

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

JLH:EG