

SCHOOLS: METHOD OF CHANGING SITE OF SCHOOL LOCATION IN
CONSOLIDATED DISTRICTS

February 3, 1938

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Honorable Emory C. Medlin
Prosecuting Attorney
Barry County
Cassville, Missouri



Dear Sir:

This is to acknowledge your letter dated January 31, 1938, as follows:

"The consolidated district number 8 of Purdy, Missouri, school house was destroyed by fire some few weeks ago, and there is an effort being made to change the site of the school house by a vote of the tax payers of the district.

"It is my opinion that the site of a consolidated district cannot be changed by the vote of the tax payers. It is also my opinion that volume 28, Missouri Appeal, on page 70, W. E. Gladney et al vs. John M. Gibson settles this question, however, I could be wrong and would like to have your opinion in regard to locating a site or changing a site of a consolidated district whether or not it is in the power of the voters and tax payers of the district or in the hands of the board."

Section 9330, Revised Statutes Missouri 1929, reads, in part, as follows:

"When the demands of the district require more than one public school building therein, the Board shall, * * * * and the Board shall select and procure a site in each newly formed ward and erect a suitable school building thereon and furnish the same."

The above statute has been construed in a number of cases wherein it was held that the Board of a consolidated school district can change a school site without the necessity of a vote of the resident taxpayers.

Gladney v. Gibson, 208 Mo. App. 70; 233 S.W. 271;
State ex rel. Miller v. Consolidated School
District, 224 Mo. App. 120; 21 S. W. (2) 645;
State ex rel. Gehrig v. Medley, 28 S. W. (2) 1040;
Crow v. Consolidated School District, 36 S. W.
(2) 676;
Corley v. Montgomery, 46 S.W. (2) 283.

In State ex rel. Gehrig v. Medley, supra, the Springfield Court of Appeals said:

"It seems to be contended by relators that the school board in a consolidated district has no power to change a school site unless authorized by a vote of the resident taxpayers. There is no merit in that contention. The board in a consolidated or city school district has the power to change the site without a vote of the taxpayers." (cases cited).

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Therefore, by virtue of Section 9330, the school board in a consolidated district may change a school site without a vote of the resident taxpayers. However, does it necessarily follow that the resident taxpayers are precluded from voting to change a school site, which is the question presented in your request for an opinion. Nowhere do we find any statute which permits the resident taxpayers of a consolidated district to vote upon any question pertaining to the changing of a school site, or the establishing of one. The only statute found relative to consolidated schools on establishing of a school site or changing same is Section 9330. Therefore, we conclude, and it is our opinion, that the Board of a consolidated school district is vested absolutely with the discretion as to the location, or changing of location, of sites used for school purposes, and as long as the Board does not abuse its discretion in the premises, the courts will not interfere. *Corley v. Montgomery*, 46 S. W. (2) 283.

Yours very truly

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED

J. E. TAYLOR
(Acting) Attorney General

JLH LC