

SCHOOLS: The School Board of the Rural District has the right to pay for the nine months term without the vote of the inhabitants.

April 6, 1938

4-17



Hon. Wayne V. Slankard
Prosecuting Attorney
Newton County
Neosho, Missouri

Dear Mr. Slankard:

This department is in receipt of your letter of March 24th wherein you request an opinion based on the following facts:

"I would like your opinion on the following:

A rural school district in this County having an average daily attendance of less than fifteen pupils, was required by the State Superintendant to transport the pupils of such district to another district. The pupils in this instance were transported to Stella School District and have been attending there since the beginning of the school year. A contract was made with the Board of the Stella School District by the Board of the rural school district to pay \$3.50 per pupil, per month for transportation and tuition. The Stella school term is for nine months. The rural school term has been in the past, eight months. Does the school board of the rural district have the right to pay for the nine months term in the Stella School without a vote of the inhabitants of the rural school district at the annual meeting of such district.

It is very necessary that I have this opinion prior to April 5th, if it is possible for you to furnish the same, as that is the date on which the annual school meeting will be held. If you are unable to supply the opinion by that date will you please let me know."

There are a number of sections dealing with the question of transportation. Section 9197 R. S. Mo. 1929, is as follows:

"Whenever the board of directors of any school district or board of education of a consolidated district shall deem it advisable, or when they shall be requested by a petition of ten taxpayers of such district, to provide for the free transportation to and from school, at the expense of the district, of pupils living more than one-half mile from the schoolhouse, for the whole or for part of the school year, said board of directors or board of education shall submit to the qualified voters of such school district, who are taxpayers in such district, at an annual meeting or a special meeting, called and held for that purpose, the question of providing such transportation for the pupils of such school district: Provided, that when a special meeting is called for this purpose, a due notice of such meeting shall be given as provided for in section 9228. If two-thirds of the voters, who are taxpayers, voting at such election, shall vote in favor of such transportation of pupils of said school district, the board of directors or board of education

shall arrange for and provide such transportation. The board of directors or board of education shall have authority and are empowered to make all needful rules and regulations for the free transportation of pupils herein provided for, and are authorized to and shall require from every person, employed for that purpose, a reasonable bond for the faithful discharge of his duties, as prescribed by the board. Said board of directors or board of education shall pay by warrant the expenses of such transportation out of the incidental fund of the district."

It appears that this section refers to districts as it uses the term "any school district". Therefore, it would include rural school districts.

Section 9354, the pertinent part, is as follows:

"The question of transportation of pupils may be voted upon at the special meeting above provided for, if notice is given that such a vote will be taken. If transportation is not provided for in any school district formed under the provisions of sections 9351 to 9358, inclusive, it shall then be the duty of the board of directors to maintain an elementary school within three and one-half miles by the nearest traveled road of the home of every child of school age within said school district:"

which refers to transportation in consolidated school districts as it mentions Section 9351 to 9358 inclusive. Therefore, even though it presents an apparent conflict with the provisions of 9397 heretofore quoted, yet it does not relate to rural school districts. Section 9270-v relates to transportation when there are less than fifteen pupils in the district:

"If any district in this state shall have an average daily attendance of less than 15 pupils as shown by the records of the last previous school year, the state superintendent shall,

in lieu of such state aid, after investigation that convinces him that it would be to the best interests of all concerned, require the board to provide for the transportation of the pupils of such district to other public school or schools, provided that the total expense, including transportation and tuition paid by the state, shall not exceed the amount that the state would have otherwise paid to such district."

This Section appears to be applicable to the point under discussion.

CONCLUSION

By the provisions of Section 9197 it does not appear that it is necessary that the patrons of the district must vote on the question of transportation, but that the board may, of its own discretion, provide for transportation of the pupils of such school district. By the terms of 9270-q, it does not appear that it is necessary for the patrons to vote upon the question, as the State Superintendent requires the Board to provide for the transportation of the pupils.

Therefore, we are of the opinion that the school board of the rural school district has the right to pay for the nine months terms in the Stella School without the vote of the inhabitants. In this connection we are enclosing an opinion rendered by this department, March 23, 1935, to Honorable G. R. Breidenstein, wherein the effect of Section 9197 discussed and even though it has no direct bearing on the question involved, we enclose the same for your information.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General