

SCHOOLS: Transportation of pupils.

April 14, 1939



Honorable W. B. Whitlow
State Senator
Jefferson City, Missouri

Dear Senator Whitlow:

This will acknowledge receipt of yours of April 7th last, requesting an opinion from this office, which letter is as follows:

"I wondered if you could give me an opinion on the following question: 'In a consolidated high school district having no free transportation, as provided in Section 9197, who will pay for the transportation of the pupils in the district, or will the parents of the children have to pay for this transportation if they attend school?'"

In your letter, you refer to Section 9197, R. S. Mo. 1929, which is a general statute, that is, applying to all classes of schools. However, Section 9354, as amended by the Session Acts of 1933, page 388, by reason of its later enactment and its specific application to consolidated schools only, appears to be the applicable statute to your problem, at least so far as elementary pupils are concerned. Such section, as amended, reads 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 trans-

portation 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: Provided, transportation of pupils or the maintenance of elementary schools within three miles and a half of each child of school age in the district shall not be required in consolidated districts now or hereafter organized under the provisions of sections 9351 to 9358, inclusive, where such consolidation has not placed said children further from an elementary school than they were prior to said consolidation: Provided however, no transportation shall be furnished if there be any school within three and one-half miles of such pupil but assignment shall be made as provided by Section 18 of an act of the 56th General Assembly, found on Page 344, Laws of Missouri, 1931. Provided, further, that when the average attendance in any elementary school for any month falls below ten, the school board shall have authority to close such elementary school for the remainder of the term and provide transportation for the pupils of such elementary school to some other elementary school or schools in said district. Such transportation shall be paid for out of the incidental funds of the district: Provided further, that if transportation is not provided for, any consolidated district may, by a majority vote at any annual or special meeting, decide to have

all the seventh and eighth grade work done at the central high school building, provided fifteen days' notice has been given that such vote will be taken. Such seventh and eighth grade work at the central high school may be discontinued at any time by a majority vote taken at any annual or special meeting."

The set-up for consolidated school districts, as provided for by Sections 9351 - 9358 inclusive, contemplates the maintenance of a high school or central school therein. Consequently, the Laws of 1935, Section 16a, page 352, covers transportation for pupils attending the central or high school. Such Section provides in part as follows:

"When any school district makes provision for transporting any or all of the pupils of such district to a central school or schools within the district, and the method of transporting is approved by the state superintendent of schools the amount paid for transportation, not to exceed three dollars per month for each pupil transported a distance of two miles or more, shall be a part of the minimum guarantee of such district for the ensuing year."

A reading of the above sections, together with kindred sections pertaining to transportation, shows that provision can be made by vote of the qualified voters of the district for transportation for both high school and elementary pupils. However, in the absence of such action by the voters (which we understand to be the case in the district you mentioned by reason of the following in your letter, to-wit: "In a consolidated high school district having no free transportation"), transportation can not be furnished such high school pupils at the expense of the district, unless and until the qualified voters take the necessary action to vote and vote favorably for such transportation.

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However, in the case of elementary pupils, it is not essential that transportation be voted for, but on the contrary, it is mandatory upon the Board of Directors to provide free transportation wherever the conditions exist relative to the maintenance of, or failure to maintain, elementary schools under the circumstances set forth in the provision of Section 9354 aforesaid.

Your letter does not acquaint us with any facts as to how any of the elementary schools are located with reference to any of the homes of any or all of the elementary pupils in the district, and consequently without such information, we are unable to specifically or definitely say what, if any, particular elementary pupil, or group of pupils, may be entitled to free transportation. However, anyone conversant with the facts relative to the maintenance of the elementary schools as they exist in the district you mention, can apply them to the provisions of the aforesaid Section 9354 and can, no doubt, reach a right conclusion as to whether or not transportation should be furnished at the expense of the district.

It would necessarily follow that if the facts or circumstances do not show the district to be obligated to pay for transportation, then the parents of the pupil, or someone for the pupil, if transportation is desired, would have to pay for or furnish same without charge.

Respectfully submitted,

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APPROVED:

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JWB:RT