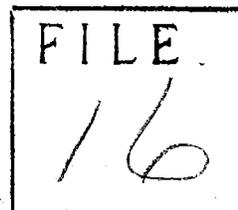


SCHOOLS: When consolidated districts close outlying rural schools districts, board should transport children under Section 10946, R. S. Missouri, 1939.

November 25, 1941

Honorable G. R. Chamberlain
Prosecuting Attorney
Cass County
Harrisonville, Missouri



Dear Sir:

This Department is in receipt of your letter of some time ago, in which you make the following inquiry:

"Miss May Bowlin, the County Superintendent of Schools, has asked me to request your valued opinion on the following question, to-wit:

"Some two years ago the members of a Consolidated Town School Board decided to close two outlying districts within the consolidation and transport the students to the central school. They at no time voted on the matter of transportation in this consolidated district, the Board merely closed the schools and transported the children of the districts where the schools were closed. I assume the schools were closed on account of the low attendance, however, there was no controversy about the reason for closing.

"There is one family who lives in one of the outlying districts above mentioned that the children at all times before closing these schools went to the central school which is at Strasburg. Since the

closing of the schools the parents now insist that the School Board is obligated to furnish transportation for his children to the central school, which is a distance of approximately one mile.

"Since this Board has closed this outlying rural school and promised that the children would be transported in such outlying district, are they now duty bound to pick up these children who live about a mile from the central school and who formerly attended the central school by choice?

"Whether or not the school bus passes by the house of the children in question I do not know, but the facts that the school board and the County Superintendent are worried over are that there are other children more remote who have not demanded transportation, who the board anticipate will demand transportation if these children above mentioned should be transported.

"The real issue, as I see it, is, when a rural school in a Consolidated District, is closed by the Board, are they duty bound to transport every child within that District regardless of the distance that they are to be transported?

"It is my understanding that this exact question has not been passed upon by your office, to-wit: What right and how far does the right extend to the patron who demands transportation by Consolidated Districts."

We think the answer to your inquiry is contained in Section 10496 R. S. Mo. 1939, which relates to consolidated

school districts and which 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 10493 to 10500, 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 10493 to 10500, 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 10461: 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 dis-

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."

You state in your letter that there was no vote or election held as to transportation, but that the board merely closed the school. We assume that this came within the provision of the section quoted, supra, to the effect that the board has such authority due to the fact that the average daily attendance falls below ten. The third proviso in said section further contains the statement that "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." It does not appear that an election is essential for the board to carry out the provisions mentioned above. The consolidated district, by the succeeding proviso, can, if no transportation is provided for, hold an election at an annual or special meeting.

We are of the opinion that the children in question are entitled to be transported to the central school. Of course, the question of transportation aid would arise as to the distance the children reside from the school. Irrespective of this feature, it does not prevent the board from transporting the children.

Respectfully submitted,

APPROVED:

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OWN:CP