

SCHOOLS: Public meeting must be held in order to effect valid dissolution of reorganized school district  
SCHOOL DISTRICTS: in accordance with Sec. 165.310, RSMo 1949. Attempt to organize school districts from territory included in reorganized school district following invalid attempt at dissolution of reorganized school district is void and officers of such common school districts have no authority or legal standing as such.

JOHN M. DALTON  
XXXXXXXXXXXX

August 17, 1953

John C. Johnsen  
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FILED

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Honorable William J. Cason  
Prosecuting Attorney  
Henry County  
Clinton, Missouri

Dear Mr. Cason:

This is in response to your request for an opinion dated July 27, 1953, which, omitting caption and signature, reads as follows:

"In Henry County, Missouri, there is a reorganized school district, 'R-9'. On April 7, 1953, the regular election for that reorganized school district was held for the purpose of electing two members to the Board of Education and for the purpose of voting on a proposed \$2.40 levy. Previous to this time there had been posted within the district notices to the effect that on April 7, 1953, there would also be a public meeting as provided by statute for the purpose of considering the dissolution of the school district. Apparently the notices were in proper form and posted properly in the required number of places in the school district.

"On April 7 and during the regular school election ballots were handed out by the election judges and clerks which asked the voters to vote for or against the dissolving of the reorganized school district. There was no public meeting within the usual sense of that word, but, the voters merely voted

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on the dissolution at the time of voting on the proposed levy and selection of the members of the Board of Education. The voting on all proposals was from 6:00 AM to 7:00 PM on the day mentioned. The vote on the question of disorganization was - for disorganization - 149 - against disorganization - 50.

"Since the purported disorganization certain areas of what was previously Reorganized District 9 have organized as common school districts, have elected their school boards and voted levies. No legal action has been taken by any group to have the purported disorganization declared either valid or invalid.

"My questions are as follows:

1. Assuming all other requirements were met was the procedure of voting at the polls on the question of disorganization sufficient and proper compliance with the appropriate statute to effect the disorganization?

2. If no legal action is taken by any group to have the disorganization declared void or valid will the common school districts that have been organized be in fact organized and recognized by the State Board of Education? Will the officers of these common school districts have full authority as all officers in common school districts properly organized?

"Since the time is nearly at hand when the reports and estimates of the various school districts must be filed with the assessors and other officers, your earliest reply would be sincerely appreciated."

Section 165.707, RSMo 1949, with regard to the disorganization of reorganized or enlarged districts, provides as follows:

"Changes of boundary lines and disorganization of enlarged districts may be effected as now or hereafter provided by sections 165.263 to 165.373."

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Therefore, your first question involves an interpretation of Section 165.310, RSMo 1949, which deals with the dissolution of town, city or consolidated school districts. That section reads as follows:

"Any town, city or consolidated school district heretofore organized under the laws of this state, or which may be hereafter organized, shall be privileged to disorganize or abolish such organization by a vote of the resident voters and taxpayers of such school district, first giving fifteen days' notice, which notice shall be signed by at least ten qualified resident voters and taxpayers of such town, city or consolidated school district; and there shall be five notices put up in five public places in said school district. Such notices shall recite therein that there will be a public meeting of the resident voters and taxpayers of said school district at the schoolhouse in said school district and at said meeting, if two-thirds of the resident voters and taxpayers of such school district present and voting, shall vote to dissolve such town, city or consolidated school district, then from and after that date the said town, city or consolidated school district shall be dissolved, and the same territory included in said school district may be organized into a common school district under sections 165.163 to 165.260."

This office had occasion to construe the language of that section in an opinion directed to Honorable Robert E. Crist, Prosecuting Attorney of Shelby County, Missouri, under date of September 22, 1952. Specifically, the question presented there was whether a regular election at which the question of dissolution would be voted upon was sufficient compliance with the provisions of the above statute calling for a public meeting. The conclusion was that a regular election was not sufficient but that a public meeting governed by ordinary and orderly parliamentary usage must be held in order to effect a valid dissolution of the district. We hereby adopt that opinion by reference insofar as it is applicable to the question presented, and we enclose a copy herewith.

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Since in the case presented by you no public meeting was held at which the question of dissolution was presented, it is our conclusion that the attempted dissolution was a nullity and, therefore, the district still exists as Reorganized School District R-9.

Your next question is whether, in the absence of any legal action being taken to have the attempted disorganization declared valid or void, the common school districts organized in the territory in question would be in fact organized and recognized by the State Department of Education.

As to whether these common school districts would be recognized by the State Board of Education, we are not in position to say. However, it follows that if the attempted dissolution of the reorganized district was invalid because of the technical defect above mentioned, and the reorganized district is still in existence, the attempted organization of the territory included in the reorganized district into common school districts would be a nullity.

In State ex inf. McKittrick ex rel. Martin et al. v. Stoner et al., 146 S.W. (2d) 891, 1.c. 894, the court said:

"From respondents' return we conclude that the election of September 23, 1939, to dissolve the consolidated district was fraudulent and void. It follows the proceedings to organize a common district and elect directors are also void. \* \* \*"

Therefore, the common school districts in question do not exist either de facto or de jure and the officers have no authority or legal standing as such.

#### CONCLUSION

It is the opinion of this office that in order to effect the valid dissolution of a reorganized school district a public meeting must be held in accordance with provisions of Section 165.310, RSMo 1949.

It is the further opinion of this office that an attempt to organize common school districts from territory included in the reorganized school district following an invalid attempt

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at dissolution of the reorganized school district is void; that the common school districts so organized have no existence; either de facto or de jure; and that the officers of such common school districts have no authority or legal standing as such.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON  
Attorney General

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