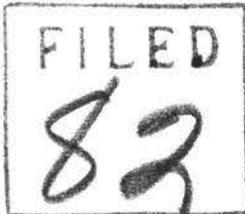


SCHOOLS, DISSOLUTION OF
REORGANIZED DISTRICTS:

) The territory included in a dissolved
) enlarged district becomes unorganized
) territory and may be organized into
) common school districts by the method
) prescribed in Section 165.163, RSMo
) 1949. No such district can receive
) state aid for the first school term
) of its existence.



April 29, 1953

Hon. Paul Simon
Missouri House of Representatives
Jefferson City, Missouri

Dear Mr. Simon:

We have given careful consideration to your request for an opinion, which request is as follows:

"We have in our county (Ripley) a re-organized School District which expects to petition for and hold an election to disorganize.

"We should like an opinion as to what effect this would have on their STATE AID, and whether or not they would automatically return to their original districts without reorganization?"

The act providing for the reorganization of school districts, to be known as enlarged districts, was enacted by the Missouri Legislature in 1948. Laws of Missouri, 1947, Vol. II, p. 370.

The final section of this law is Section 165.707, RSMo 1949, which is 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."

Hon. Paul Simon

The procedure provided herein for the dissolution of an enlarged district is defined in Section 165.310, RSMo 1949, which is 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."

The status of the territory included in a dissolved district is defined by the Supreme Court of Missouri in State ex inf. McGinnis v. School Dist. No. 3, 277 Mo. 28. In the course of that opinion, on page 34, the court says:

" * * * If the present consolidated school district was legally established (which is the basic allegation of relator's suit) then its dissolution, even if validly decreed, would not, per se, restore the corporate franchises of the previous school districts, nor restore its directors to their former offices and functions. Neither

Hon. Paul Simon

was it within the judicial power of the circuit court after dissolving the consolidated district, to recreate and restore the former districts or their officers even if such issue had been within the pleadings, for when the former districts ceased to exist as such, the terrain comprehended within them became a part of the new consolidated district formed thereof, and upon a valid dissolution of the latter, such terrain would become 'unorganized territory' (R.S. 1909, sec. 10776), and could thereafter be organized into school districts only by the method prescribed in the statute and upon the votes of its inhabitants. * * * "

The court herein makes it clear that the dissolution of an enlarged district does not automatically restore the original districts. The ruling in *State ex inf. McGinnis v. School District No. 3* heretofore cited, has been quoted approvingly and restated as late as 1949 by the St. Louis Court of Appeals in the case of *Hydesburg Common School District of Ralls County v. Rennselaer Common School District of Ralls County*, 218 S.W. (2d) 833. The territory involved becomes unorganized territory and may be organized into school districts only by vote of the inhabitants as prescribed by the statute.

The statute referred to is Section 165.163, RSMo 1949, which is as follows:

"Whenever there shall be in this state any territory not organized into a common school district, and containing within its limits twenty or more pupils of school age, three or more taxpayers of such territory may call a meeting of the qualified voters of such unorganized territory, or such part thereof as they desire to organize into a school district, by first giving fifteen days' notice of the time, place, purpose of the meeting and boundary lines of the territory proposed to be organized. The qualified

Hon. Paul Simon

voters, when assembled, may organize such territory into a school district, a majority of the qualified voters residing in such territory proposed to be organized into a school district voting therefor, who shall approve of a plat defining the boundaries thereof, and elect three directors, who shall serve until the next annual meeting, when one director shall be elected to serve for one year, one director for two years and one director for three years--said directors to serve until their successors are duly elected and qualified; provided, that any territory not organized into a school district, and containing less than twenty pupils of school age, may be attached to an adjoining district, upon petition by the qualified voters of such unorganized territory, or such part thereof as may wish to be attached to such adjoining district, directed to the board of directors of such adjoining district; and it shall be the duty of such board, on receipt of the petition, to meet forthwith and consider same, and if a majority of the board are in favor thereof, such territory shall become a part of such district."

Districts established under this procedure are common school districts and must function as such. Any such district, however, may at any time thereafter be organized into a town or city school district if qualified under Section 165.263, RSMo 1949.

The granting of state aid to school districts, as provided in Chapter 161, RSMo 1949, is based upon the records of the school for the previous year, and there is no way to establish any such records for a district newly carved out of unorganized territory. There is no law under which any such district can claim state aid for the first school term of its existence.

CONCLUSION

It is the opinion of this office (1) that the territory included in a dissolved enlarged school district becomes

Hon. Paul Simon

unorganized territory and may be organized into school districts only by the method prescribed in Section 165.163, RSMo 1949; (2) that no district established in this manner can receive state aid for the first school term of its existence.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Julian L. O'Malley.

Yours very truly,

JOHN M. DALTON
Attorney General

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