

SCHOOL DISTRICTS:  
ELECTIONS:  
RESIDENTS:  
VOTERS:



Destruction of county records by fire and subsequent drawing of supposed map by a former Judge of the County Court does not constitute a change of boundary lines of school district; a person who was a resident of an adjoining district before the fire and drafting of the map, is not made a resident of another district merely because the supposed map shows him to be a resident of such district. Since such person is not a resident of the district in question he is not a qualified voter at school elections held therein.

July 19, 1954

Honorable Richard D. Moore  
Prosecuting Attorney  
Howell County  
West Plains, Missouri

Dear Mr. Moore:

By letter dated June 23, 1954, you requested an opinion from this office as follows:

"In a certain (common) school district, there is a party who votes in the regular elections of this district. By the records of the school district this party is not a resident of the district in which he votes. However, the records of the county burned sometime ago in the Court House and after the records burned, a former Judge of the County Court drew from memory a map of the school district and established this party a resident of the district where he now votes. Before this he was a resident of an adjoining district. The residents of the school district now want to know if this map which is being used to establish the party's residence would have any legal force or effect."

The qualifications required of voters in school district elections are set forth in Section 165.207, RSMo 1949:

"\* \* \* A qualified voter within the meaning of this chapter shall be any person who, under the general laws of

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this state, would be allowed to vote in the county for state and county officers, and who shall have resided in the district thirty days next preceding the annual or special meeting at which he offers to vote."

Your letter states that the person in question was a resident of an adjoining district before the Courthouse and county records burned, and before a purported map of the school district in question was drawn by a former Judge of the County Court from his memory. The question presented is whether the burning of the records and the subsequent drawing of a supposed map of the school district in the manner set forth in your letter, effected a change in the boundary line of the school district. Provision for change of boundary lines of common school districts is made by Section 165.170, RSMo 1949, as follows:

"1. When it is deemed necessary to form a new district, to be composed of two or more entire districts, or parts of two or more districts, to divide one district to form two new districts from the territory therein, to divide one district and attach the territory thereof to adjoining districts, or to change the boundary lines of two or more districts, it shall be the duty of the district clerk of each district affected, upon the reception of a petition desiring such change, and signed by ten qualified voters residing in any district affected thereby, to post a notice of such desired change in at least five public places in each district interested fifteen days prior to the time of the annual meeting, or by notice for same length of time published in all the newspapers of the district; and the voters, when assembled, shall decide such question by a majority vote of those who vote upon such proposition. If the assent to such change be given by the annual meetings of the various districts thus voting, or by the parts of the district to be divided, each part voting separately, the district or districts shall

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be deemed formed or the boundary thus changed from that date; but if one or more of the districts affected vote in favor of such change and one or more of such districts vote against such change, the matter may be referred to the county superintendent of public schools; and upon such appeal being filed with him, in writing, within five days after the annual meeting, he shall appoint four disinterested men, resident taxpayers of the county, who, together with himself, shall constitute a board of arbitration, whose duty it shall be to consider the necessity for such proposed change and render a decision thereon, which decision shall be final. When there is an equal division, the county superintendent shall cast the deciding vote.

"2. The superintendent shall, at the time of the appointment of these members of this board of arbitration, notify them to meet him at some convenient place in the county within fifteen days after annual school meeting, where the deliberations of the board shall take place and its decision be rendered. But in making such change the decision in all cases shall conform to the propositions contained in the notices and voted upon at the annual meeting; and the county superintendent shall, on or before the last day of April, transmit the decision to the clerks of the various districts interested, or to the clerk of the district divided, and said clerk or clerks shall enter the same upon the records of his or their respective district or districts; and the said board of arbitration shall be allowed a fee of fifteen dollars to be paid by the district or districts taking the appeal at the time said appeal is made; provided, however, that no new district shall be created or boundary line changed by which any district shall be formed containing

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within its limits by actual count less than twenty persons of school age, or by which any district shall be left containing within its limits by actual count less than twenty persons of school age; provided, however, the resident voters upon any island in any of the navigable rivers of this state may organize into a school district without being subject to the restrictions in the preceding portion of this section. It is further provided that, in changing the boundary line between the two established districts, one district shall not encroach upon the other simply for the acquisition of territory.

"3. At all elections to change boundaries, the votes of those parties residing in the territory sought to be attached to or detached from a district shall be separately cast and separately counted by the parties or officers holding such election; provided further, that if in any school district or districts of the state a stream of running water shall in any way interfere with the convenient access of school children to the schoolhouse or houses of any such district or districts, then it shall be lawful to create a new district, to be composed of two or more districts or parts of two or more districts, or of one entire district and parts of one or more districts, lying in whole or in part in two counties in the manner herein set out; and in the event of an appeal being taken, as herein provided, from the action of the school meetings on the proposed formation of such district, such appeal shall be taken to the county superintendents of the respective counties; and such superintendents shall thereupon be empowered to jointly appoint a board of arbitration, who shall thereupon act as herein set out; and in the event of a tie vote, such superintendents shall select an additional member of such board

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of arbitration, whose decision shall be final; and such decision shall be transmitted to the clerks of the districts affected thereby."

It is obvious that the burning of the records and the subsequent drawing of a supposed map of the school district by a former Judge of the County Court is not substantial compliance with the above section, and, therefore, was not effective in changing the boundary of the school district. We must conclude that the person in question is a resident of the adjoining district of which you speak, and, therefore, is not a qualified voter in the district in which he does not reside.

#### CONCLUSION

In the premises therefore, it is the opinion of this office that the destruction of county records in a fire and the subsequent drawing of a supposed map of a school district by a former Judge of the County Court does not constitute a change of boundary lines of the school district in question, and, therefore, a person who was a resident of an adjoining district before the fire and the drafting of the map, is not made a resident of another district merely because the supposed map shows that he is a resident of such district. Since such person is not a resident of the district in question he is not a qualified voter at school elections held therein.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON  
Attorney General

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