

SCHOOLS: Statutory common school district meeting may adjourn promptly
ELECTIONS: upon completion of official business.



June 14, 1956

Honorable Harry J. Mitchell
Prosecuting Attorney
Marion County
Palmyra, Missouri

Dear Mr. Mitchell:

This office is in receipt of a request from you for an opinion as follows:

"The Annual Meeting of a Common School District held on the first Tuesday in April, 1956, at the District School House, is required by Section 165.200 Mo.R.S. 1949, to commence at 2:00 o'clock p.m. If the voting is for directors of the School District, and approximately one-third (1/3) of the qualified voters of the district are employed, working for a wage or salary, and are required to be at work until 5:00 o'clock p.m., is it required by law that the School meeting be held open until 5:00 o'clock p.m.? Is the meeting required to be held open any particular length of time?"

"If a person arrives at the meeting at 2:30 p.m. the voting for director has been closed, and the votes counted, is the person unlawfully deprived of his vote if not permitted to vote?"

An examination of statutory provisions concerning the election of directors of a common school district discloses that the cardinal provisions for the organization of such a district are contained in Sections 165.163, 165.200, 165.203, 165.207 and 165.213, RSMo 1949. It will be noted that 165.200, above mentioned, provides for annual meetings of common school districts as follows:

"The annual meeting of each school district shall be held on the first Tuesday in April

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of each year, at the district schoolhouse, commencing at two o'clock p.m. If no schoolhouse is located within the district, the place of meeting shall be designated by notices, posted in five public places within the district fifteen days previous to such annual meeting, or by notice for same length of time in all the newspapers published in the district, giving the time, place and purposes of such meeting."

And that Section 165.203 provides for the assembly of the voters in the annual meeting and outlines the procedure for the organization of the meeting and the authority vested in the qualified voters, assembled at the annual meeting. There is a provision in Section 165.203 for choice by ballot of one director to hold office for the term of three years and a further provision for the determination of the length of the school year by ballot.

Balloting is further mentioned in subdivision 9 wherein it is provided the voters are empowered to designate by ballot their choice for a person to fill the office of county superintendent of schools. This balloting is mentioned to show the procedure for the conduct of the common school district meeting that is directed by statute. There is, as shown above, a direction in the statute as to when the meeting will convene; nothing is mentioned concerning the time of continuation of the meeting or the adjournment of the meeting.

In regard to the character of the organization of a common school district, our court said in the case of Tate vs. School District No. 11 of Gentry County, 324 Mo. 477, 23 S.W.(2d) 1013, at p. 120:

"* * * *While provision is made in the statutes for a change in the personnel of the membership of the board of directors by the vote of the qualified electors of the school district at each annual meeting of the school district, yet the intention of the Legislature is clearly reflected in the statutes that the board of directors of a common school district is a continuous body or entity, and that transactions had, and contracts made, with the board, are the transactions and contracts of the board, as a continuous legal entity, and not of its individual members."

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The reference made in the above to the annual meeting and to the change to be made in the personnel in the board of directors by vote will be noted.

In State ex rel. Wagster vs. School District No. 4-C, 358 Mo. 839, 217 S.W.(2d) 500, the court considered a situation where two persons arrived late to a common school district meeting when the ballots had been cast and the voting had been declared closed by the chairman. The court, in regard to that situation, said, at l.c. 502, as follows:

"Even though the section is directory, the Donicas were not wrongfully deprived of their right to vote because they were not present until after all present had voted and the tellers had called the vote, although the result of the balloting had not been announced. In other words, the statute was followed. Directory provisions of a law are not intended by the legislature to be disregarded. 50 Am. Jur. 43.

"If the chairman had reopened the voting and permitted the Donicas to vote, then we would have a different question before us. Under such circumstances we would have the question of whether such irregularity would be sufficient to invalidate the election where the statute is directory."

It is thought that it surely is indicated by the interpretation of the court and the mandate of the statute that the proper interpretation of the law is that a common school district is to be organized in a public meeting of the qualified voters of the district. The meeting, in accordance with the directions of the statute, is to be held on the designated date of the first Tuesday of April, at 2:00 o'clock p.m. It is felt that the hour of convening, as described in the statute, gives the hour of the commencement of the meeting and that there is then no time limit thereafter for the continuation of the meeting.

CONCLUSION

It is, therefore the opinion of this office that a common school district meeting, in accordance with Section 165.200, RSMo 1949, must

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meet at 2:00 o'clock p.m. and may close promptly upon the completion of the business required of it.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. James W. Faris.

Yours very truly,

John M. Dalton
Attorney General

JWF:bi/mw