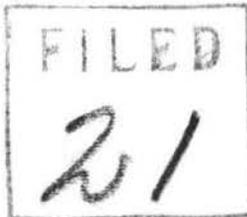


SCHOOLS: Data on average daily attendance for school year 1956-1957 used in determining average daily attendance of proposed enlarged district submitted to voters as plan of county board of education when such plan is submitted to voters after June 30, 1957 and before July 1, 1958.

SCHOOL DISTRICTS:



November 27, 1957

Honorable Dick B. Dale, Jr.  
Prosecuting Attorney  
Ray County  
Richmond, Missouri

Dear Mr. Dale:

This is in response to your request for opinion dated November 18, 1957, which reads as follows:

"Our County Superintendent of Schools, Mr. Otis L. Chandler, has asked me to request an opinion from your office concerning proposed enlarged school districts under sections 165.657 to 165.703, RSMo 1949.

"The question which concerns the Ray County Board of Education is, whether to use daily attendance data for the school year of 1956-57, in the preparation of a Ray County Board of Education plan to be submitted to the voters of the County, as provided by section 165.677.

"The facts leading up to this question are as follows:

June 1957 - Ray County Board of Education submitted proposed plan to the State Board of Education as provided by section 165.677, using daily attendance data for the school year 1955-56.

Subsequently, the Ray County proposed plan was not approved by the State Board of Education.

Within sixty days a revised plan was submitted by the Ray County Board of

Honorable Dick B. Dale, Jr.

Education to the State Board of Education. This revised plan also was not approved.

"Under section 165.677, RSMo 1949 the County Board of Education is now proceeding to make a new plan which is to be submitted to the voters of the County within sixty days from the time the revised plan was rejected by the State Board of Education. Since we are now in the 1957-58 school year, and the statute provides that the Board use daily attendance data for the preceding year, there is some confusion among the Board members and the County Superintendent as to whether the 1955-56 data, which was used in the rejected plans submitted to the State Board of Education, should be used or whether the 1956-57 attendance data, which would be the data for the preceding year, should be used.

"An opinion concerning the foregoing question will be greatly appreciated by the County Board of Education and by this office."

The particular portion of Section 165.677, RS, Cum. Supp. 1955, which gives rise to this question is that which reads:

"No enlarged district may be proposed or submitted without the approval of the state board unless such proposed district shall have a minimum of two hundred pupils in average daily attendance for the preceding year or is comprised of at least one hundred square miles of area."

In arriving at the meaning of this provision, we are guided by the quotation contained in Willard Reorganized School Dist. No. 2 of Greene County v. Springfield Reorganized School Dist. No. 12 of Greene County, 241 Mo. App. 934, 248 SW2d 435, 442:

" \* \* \* We may not capriciously ignore the plain language of the statute but in determining what the language really means we may consider the entire purpose and

Honorable Dick B. Dale, Jr.

policy of the statute and "the language in the totality of the enactment" and construe it in the light of "what is below the surface of the words and yet fairly a part of them." The meaning of statutes and particularly the meaning of our school statutes may not be found in a single sentence but in all their parts and their relation to the end in view or to the general purpose. \* \* \*"

The purpose of this entire enactment was succinctly stated in State ex rel. Rogersville Reorganized School Dist. No. 4, of Webster County, v. Holmes, 363 Mo. 760, 762, 253 SW2d 402:

"The reorganization law became effective July 18, 1948. Its purpose was to promote the rapid merger of the multitude of small, inadequately equipped and financed school districts of this State into fewer and larger districts with financial resources to provide adequate buildings, teaching staffs and equipment. \* \* \*"

Judging from the portion of Section 165.677 quoted above, it evidently was the opinion of the Legislature that generally the minimum size of a school district, in order to effect the purpose of the act, should be one hundred square miles in area or consist of two hundred pupils in average daily attendance. We say "generally" because it was also apparently recognized that there might be circumstances in which a smaller district would be acceptable, in which event it could be approved by the State Board of Education. In any event, there is a prohibition against the creation of a smaller district without the approval of the State Board.

Although for the purpose of jurisdiction the submission of its own plan to the voters of the proposed district by the county board of education may be considered as just one more step in the total process of reorganization (State ex rel. Corder School Dist. No. R-3 v. Oetting, Mo. App., 245 SW2d 157), we do not believe that would justify the use of the attendance figures for the school year 1955-1956 in determining the size of the proposed district which is to be submitted to the voters, even though those were the latest figures at the time the two rejected plans were being considered by the State Board of Education.

Honorable Dick B. Dale, Jr.

Now at this point when the county board is submitting its own plan to the voters, which is the first time that the minimum size for proposed districts comes into operation, there are attendance figures available for the school year 1956-1957. Considering the purpose and policy of the statute, i.e., the creation of districts of adequate size, and the language in the totality of the reorganization law, we are of the opinion that the words "preceding year" as used in the portion of Section 165.677, quoted above, and as applicable to your situation, mean the school year beginning July 1, 1956 and ending June 30, 1957 (§163.020, RSMo 1949).

#### CONCLUSION

It is the opinion of this office that the data on average daily attendance for the school year 1956-1957 must be used in determining the average daily attendance of a proposed enlarged school district being submitted to the voters as the plan of the county board of education, unapproved by the State Board of Education, when such plan is submitted to the voters after June 30, 1957 and before July 1, 1958.

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

Yours very truly,

JOHN M. DALTON  
Attorney General

JWI:ml