

SCHOOLS: December 25, 1956, counted as a day in session for the purpose of apportioning  
HOLIDAYS: state aid to schools.



September 30, 1957

Honorable Vance O. Smithpeter  
Prosecuting Attorney  
Carroll County  
Carrollton, Missouri

Dear Mr. Smithpeter:

This is in response to your request for an opinion dated August 15, 1957, which reads, in part, as follows:

"In regard to the audits of attendance records of the public school districts in Carroll, as provided in Paragraph 1, Section 165.115 (L 1955 S.B. 107), I am requesting your opinion in regard to Paragraph 3 of the above section.

"Section 161.021 (L 1955 S.B. 3) Paragraph (1) provides for including in the number of days that school is in session the legal holidays as specified in Section 163.020 R.S. Mo. 1949. The number of days school is in session is used in determining the 'average daily attendance' referred to in said Paragraph (1), Section 161.021, and the 'average daily attendance' in turn is used to determine the apportionment of State Aid as provided in Section 161.031, Paragraphs 1 and 3 (L 1955 S.B. 3).

"My specific question is, does Christmas Day, December 25, 1956, count as a day in session for the above computations, school having been dismissed for Christmas vacation on Friday, December 21, and not resumed until Monday, December 31, or thereafter?"

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Section 161.021(1), RSMo, Cum. Supp. 1955, to which you refer, reads as follows:

"(1) 'Average daily attendance' means the result obtained by dividing the total number of days attended of pupils in grades one through twelve inclusive and between the ages of six and twenty, by the actual number of days that the school was in session including legal school holidays and legally authorized teachers' meetings. The days' attendance on legal holidays and on days when the school is dismissed by order of the board to permit teachers to attend teachers' meetings shall be determined by counting as present each pupil who was present on the last day the school was in session before such intermission."

That section standing alone is clear and free from ambiguity. The only thing which could possibly give rise to your question is the fact that Section 163.020, RSMo 1949, in defining a "school week", provides, in part, that:

" \* \* \* the school week shall consist of five school days, except when Thanksgiving day, December twenty-fifth, February twenty-second or July fourth shall fall upon a regular school day, then the four remaining school days, if taught, shall constitute a legal school week; \* \* \*."

In 1956, December 25 was on a Tuesday, and under your factual situation school was not in session on the other days of the week so that under Section 163.020, supra, Christmas week could not be counted as a legal school week.

However, the apportionment of state aid is not based upon school weeks, but, rather, upon average daily attendance as defined in Section 161.021(1), supra. Consequently, Section 163.020, supra, has no bearing upon the question except insofar as it specifies the days recognized as legal school holidays.

Under the facts of this request and following the provisions of Section 161.020(1), supra, December 25, 1956, is counted as a

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day in session for the purpose of apportionment of state aid and the day's attendance on that day is determined by counting as present each pupil who was present on the last day school was in session, i.e., Friday, December 21, 1956.

CONCLUSION

It is the opinion of this office that December 25, 1956, is to be counted as a day in session for the purpose of apportioning state aid to schools.

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

Very truly yours,

JOHN M. DALTON  
Attorney General

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