

ELECTIONS: Voters in the school election in the School  
SCHOOL DISTRICTS: District of St. Joseph may not vote at a  
VOTERS: regular polling place for the regular  
POLLING PLACE: municipal election in the City of St. Joseph,  
which polling place is outside the limits of  
the School District of St. Joseph.

Opin. No. 85

March 5, 1962



Honorable Dan Hale  
Prosecuting Attorney  
Buchanan County  
St. Joseph, Missouri

Dear Mr. Hale:

This is in reply to your letter of January 17, 1962, in which you requested an official opinion from this office, and your supplemental letter of February 8, 1962, which supplemental letter reads as follows:

"The School District of the City of St. Joseph is governed by the statutes relating to School Districts in cities of 75,000 to 700,000. Some of these statutes are found beginning at Sec. 165.377 to Sec. 165.550, also Sec. 111.255.

"At the oncoming City Election to be held on April 3rd, two school directors for the School District for the City of St. Joseph are to be elected. The city will furnish the polling facilities.

"The question that we have is as follows: we have a precinct which is all inside the city limits of the City of St. Joseph and partially outside of the limits of the School District. The polling place has always been the Spring Garden School. The Spring Garden School is outside of the School District and inside the city limits.

"Can the people who live inside the School District vote for the school directors at the polling place which is Spring Garden School which is geographically located outside of the School District?"

The general school law governing the place of school elections is found in Section 165.330, RSMo. 1959, a portion of which reads as follows:

"The qualified voters of such town, city or consolidated school district shall vote by ballot upon all questions provided by law for submission at the annual school meetings, and such election shall be held on the first Tuesday in April of each year, and at such convenient place or places within the district as the board may designate. . . ." (Emphasis supplied.)

This general law requires that the polling places be within the school district, and if it were applicable to the St. Joseph School District, it would not be permissible to have the Spring Garden School as the polling place for the school election.

As stated in your letter, the School District of the City of St. Joseph is governed by Sections 165.377 to 165.553. Section 165.377 reads, in part, as follows:

"All school districts in this state which contain all, or the greater part of, a city having a population of more than seventy-five thousand and less than seven hundred thousand inhabitants . . . shall be a body corporate . . . and shall possess the same corporate powers and be governed by the same general laws as other school districts, except as herein provided. \* \* \*" (Emphasis supplied.)

Under this section, the general school laws would govern unless there was a specific provision applicable to the St. Joseph School District which excepted it from this section.

Section 165.383, RSMo. 1959, provides, in part, as follows:

" \* \* \* And provided further, that if any city, in which there is or may hereafter be located wholly or in part a school district to which sections 165.377 to 165.553 apply, shall hold its election for municipal officers on a date other than the first Tuesday after the first Monday in April, then such election for school directors in the year in which the city shall hold its said election shall be held at the same time and places as the election for municipal officers, \* \* \*."

Section 165.383 is an exception from the general laws for St. Joseph if the election is held on a date other than the first Tuesday after the first Monday in April, or if the school election is held at a different time than the municipal election. Here the facts are that both elections are to be held on April 3, 1962, which is the first Tuesday after the first Monday in April, they are the regular elections, and Section 165.383 does not provide an exception from the general laws for this election.

Section 165.465 cannot be an exception for St. Joseph because that section deals only with a school district having a population of more than two hundred thousand and therefore cannot apply to St. Joseph.

As it read in 1949, Section 165.467 contained the language, "... and the election of directors and the submission of such questions, except in the cases of special elections provided for in sections 165.473, 165.487, 165.490 and 165.497, shall be held at the same time and places as the election for municipal officers...."

This language would have been a clear exception under the facts of this situation, but this language was deleted from the section when amended by Laws of 1951, page 528, Section 2, effective July 29, 1952. There is nothing in the present section 165.467 which could constitute an exception because it does not specify that the school election shall be held at the same time and place as the municipal election.

Section 165.473 is not applicable here because it deals only with special elections, and the election in question here is the regular election.

Section 111.255, RSMo. 1959, reads as follows:

"Notwithstanding any other provisions of law, whenever any primary, general or special elections, or elections held by any school district, fire protection district, sewer district, municipalities, or other political subdivision of the state, are held upon the same day in any political subdivision, one polling place for the several elections in each precinct, consolidated precinct or district in the political subdivision shall whenever feasible be designated by the county clerk, board of election commissioners, or other proper election official, having authority over general elections in the political subdivision and the election officials in the polling places shall be designated by the county clerk, board of election commissioners or other proper election official and shall be compensated for one election only. Any person failing or refusing to comply with the provisions of this section is guilty of a misdemeanor."

This section (111.255) of the general election laws is not sufficient in this case because it only provides for one

polling place for the several elections in each precinct whenever feasible. It presupposes that the precincts or districts coincide, and it in no way authorizes a polling place outside of a precinct or district.

The general laws on elections, in Section 111.060, RSMo. 1959, provides: "Each voter shall vote only in the township in which he resides, or if in a town or city, then in the election district therein in which he resides." This strengthens the proposition that voters in a school election may not vote at a polling place outside the limits of the school district.

The facts show that the election which is to be held in the City of St. Joseph on April 3, 1962, is the regular biennial election, held on the first Tuesday after the first Monday in April. This is the regular election for both the City of St. Joseph and the School District. Since the St. Joseph School District is governed by the same general laws as other school districts; such general law requires the polling place to be within the district; and we are unable to find any exception for this regular election; it necessarily follows that a polling place which is outside of the school district is not proper and the residents of the school district could not vote in a school election at such a polling place.

#### CONCLUSION

It is the opinion of this office that the voters in the school election in the School District of St. Joseph may not vote at a regular polling place for the regular municipal election in the City of St. Joseph, which polling place is outside the limits of the School District of St. Joseph.

This opinion, which I hereby approve, was prepared by my assistant, Wayne W. Waldo.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General