

July 5, 1962



Honorable Stewart E. Tatum
Prosecuting Attorney
Jasper County
Joplin, Missouri

Dear Mr. Tatum:

This is in answer to a letter from Ben F. Pyle, Assistant Prosecuting Attorney, dated June 27, 1962, in which an opinion is requested concerning the closing of a school in a common school district and the transportation of the pupils to another school.

We are enclosing a copy of an opinion of this office issued on October 12, 1943, to Honorable John H. Keith, Prosecuting Attorney of Iron County, Ironton, Missouri. This previous opinion sets out three different situations in which a school may be closed and the pupils transported.

One of these situations is under Section 10464, RSMo 1939, which is now Section 161.120, RSMo 1959, and this is the section to which you refer in your letter. This section is probably not applicable to your situation since it deals with a district which has an average daily attendance of less than fifteen pupils and in your letter the district involved has an average daily attendance in excess of twenty pupils.

Another situation is under Section 10324, RSMo 1939, which is now Section 165.013, RSMo 1959. From the facts stated in your letter, we do not know whether this section will apply to your situation since it deals with districts having fewer than twenty-five children and although you state that the district concerned has in excess of twenty pupils, we do not know whether it has fewer than twenty-five.

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The other situation is under Section 10457, RSMo 1939, which is now Section 161.100, RSMo 1959. The application of this section will depend upon the facts of the situation in your local districts.

In your letter you want to know whether an opinion will be granted by this office. Strictly speaking, this office is required by Section 27.040, RSMo 1959, to render opinions to the prosecuting attorneys only upon questions of law relative to their respective offices or the discharge of their duties, and we doubt that it is a part of the official duties of a prosecuting attorney to advise a member of the board of directors of a common school district. However, we are always happy to be of assistance in any way possible and we hope that this copy of the previous opinion of this office will be helpful to both you and Mr. Osborne. We trust that an examination of the facts of your situation in the light of these various sections of the law will give you the answer you need.

If we can be of any further assistance, please feel free to contact us again in this matter.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

WWW:gm
Enclosure