

SCHOOLS: Where districts combine temporarily for educational purposes, the teachers' funds of such districts can be used to pay the salary of the teacher or teachers of such combination of districts.

October 27, 1942

11-5



Mr. A. G. Jannopoulos  
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Dear Sir:

This will acknowledge receipt of your letter of October 22, 1942, in which you submit the following for an opinion:

"I represent the Washington Park School District No. 48, located in St. Louis County, Missouri, which school district is a common school district. In 1940 this school district lost control of its school buildings by reason of the extension of the city limits of Webster Groves to include a portion of the Washington Park School District, on which portion the school houses were located. Since that time, children of school age in the remaining portion of the Washington Park School District have been receiving their education from an adjoining school district, namely, the Affton School District. We have been billed for tuition for these school children, and have funds in our 'Teachers' Fund'. We would like a ruling from your office as to whether we could use these funds now in the 'Teachers' Fund' to pay this tuition inasmuch as the Washington Park School Dis-

trict No. 48 has no teachers, owes no teachers, and has not had any teachers since 1940, and furthermore, has no school buildings.

"We are not attempting to transfer all or any part of the 'Teachers' Fund' to the 'Incidental Fund', but wish to pay this tuition by issuing a warrant direct to the Affton School District."

Section 10366, R. S. Missouri, 1939, provides in part as follows:

"All moneys arising from taxation shall be paid out only for the purposes for which they were levied and collected. \* \* \* \* \*

"The treasurer shall open an account for each fund specified in this section, and all moneys received from the state, county and township funds, and all moneys derived from taxation for teachers' wages, and all tuition fees, shall be placed to the credit of the 'teachers' fund', except money apportioned for free text books, which shall be credited to the 'Free Text Book Fund'. \* \* \* \* "

By the foregoing section the law limits the use to which school moneys may be put to the purposes for which such moneys were collected. Moneys collected for teachers' funds must be used to pay teachers.

We have ascertained from the State Department of Education that Washington Park School District and the Affton School District have combined temporarily for educational purposes, under the provisions of Section 10457, R. S. Missouri, 1939. Said section reads as follows:

"Two or more districts may combine temporarily for educational purposes should the school boards of all districts concerned agree to transport the pupils of one or more districts to a schoolhouse elsewhere, and such districts shall receive the same apportionment from the state school fund as they would otherwise have received, and may use such funds, or any part thereof, in transporting pupils: Provided further, that in such temporary combinations the record of daily attendance of pupils from each district shall be kept separate, and credited to their respective districts, as a basis for future apportionments."

By the latter section two or more districts are authorized to combine temporarily for educational purposes. In other words, such districts may "pool" their efforts and jointly provide for the instruction of their pupils. In such a combination it certainly is not contemplated that each district shall furnish a teacher, but the purpose of the combination manifestly is to conserve on expenses. The statute clearly contemplates that under such combination there would be a combined teaching force and all districts in the combination would share the expense of paying the teacher or teachers. The share of the salary of a teacher or teachers for the combination of districts which each district bears could properly be paid out of the teachers' fund because it would be used to pay teachers' salaries. The teacher of such combination of districts is as well the teacher of one district as he is the teacher of another district of the combination. In the case about which you inquire the teacher is as much the employee of Washington Park District as he is of the Affton District, and the mere fact that he actually does his teaching in the Affton District schoolhouse does not change the situation.

From the foregoing we think that the share of the salary of the teacher or teachers who are instructing the pupils of Washington Park District at the Affton District

schoolhouse is not "tuition." Tuition is the fee or charge which is made for permission for a pupil to attend a school which he is not entitled to attend as a matter of right. In other words, where a pupil of one district desires to attend the school of another district, he is required to pay a fee, which is called tuition, but in such case the district attended is furnishing the school and its facilities. In the case of a combination of districts, under Section 10457, supra, no one district is furnishing the facilities of the school entirely, but all the districts affected are jointly furnishing the school facilities, including instruction.

It should be noted that said Section 10457 provides that each district of the combination receives the same apportionment from the state school fund as it would were it maintaining its own school. By Section 10366, supra, money received by a district from the state school fund goes into the teachers' fund. There would be no reason for the state allowing such a district money for a teachers' fund when there was to be no teacher in that district, unless it was contemplated that such money so apportioned could be used to help pay the salary of the teacher or teachers of the combination of districts.

#### CONCLUSION

It is, therefore, the opinion of this department that where two or more districts combine temporarily for educational purposes, under the provisions of Section 10457, R. S. Missouri, 1939, the salary of the teacher or teachers who teach the pupils of all districts in the combination can be paid from the teachers' funds of the various districts in the combination.

Respectfully submitted

APPROVED:

HARRY H. KAY  
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Attorney General

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