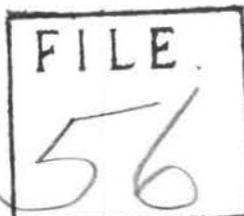


SCHOOLS: Registration day should be included as a school day in report of district clerk.

March 31, 1942

Honorable Frank C. Mann
910 Landers Building
Springfield, Missouri



Dear Sir:

This department is in receipt of your request for an official opinion, which reads as follows:

"The Board of Education of the School District of the City of Springfield has directed me to write you requesting your opinion on the following state of facts:

"In order to be entitled to its apportionment of state funds, the length of the school term for the year 1941-1942, must consist of at least 180 school days. The present school term opened Monday, September 8th, and, according to the present schedule and school calendar, it will close May 29th. Under this calendar after deducting all the holidays provided for it will have the full 180 teaching days provided the first day, September 8th, may be counted.

"The facts with reference to September 8th are, as follows: The superintendent and the board were prevailed upon to hold no classes on September 8th, in order that the pupils might attend the opening day of our Ozark Empire District Fair, which was being held during the week of September 8th. No

classes were scheduled or conducted. However, the faculty was assembled, the students were enrolled and conferences with reference to course of study were held throughout the day. The students were required to enroll on that day but were otherwise not required to attend school.

"I enclose an exchange of correspondence between Mr. Harry P. Study, our superintendent of schools, and Mr. Lloyd W. King, State Superintendent, consisting of Mr. Study's letter of November 8th, and Mr. King's letters of November 8th and 13th, from which you will note that Mr. King advises 'We in making the apportionment of state funds for your school shall accept the day (September 8th) as a day in attendance by the pupils'. That would appear to me to settle the question except for the fact that the secretary of the School District, who is required by the provisions of Section 10390, Revised Statutes of Missouri, 1939, to make an affidavit showing, among other things, 'the total number of days attendance of all pupils, the length of the school term -- the number of days taught by each teacher --', and he is unwilling, without legal advice to make the affidavit include September 8th, in view of the provisions of Section 10362, which provides in part 'The school day shall consist of six hours occupied in actual school work'.

"The Board of Education would, therefore, appreciate your opinion as to whether its secretary would be warranted in including in the affidavit required to be made, as above stated, September 8th, although no classes were actually assembled or taught on that date, although the faculty was assembled, the students enrolled and conferences held throughout the day."

Section 10390, R. S. Mo. 1939, provides for the apportionment of the public school funds by the State Superintendent of Public Schools to the various school districts of the state. The Superintendent bases his apportionment on a report made by the clerk of each school district to the county clerk, "showing the number of teachers employed, the total number of days attendance of all pupils; the length of the school term, * * * the number of days taught by each teacher." This information is given in the form of an affidavit and the statute provides that any person who knowingly furnishes false information shall be guilty of a misdemeanor.

The question presented in your request is whether the first day of school, spent in enrolling the pupils and the conducting of conferences by the teachers with the pupils and by the head of the school with the teachers, is a school "day" within the meaning of Section 10390, supra.

Section 10362 R. S. Mo. 1939, provides that "the school day shall consist of six hours occupied in actual school work." We believe that the registration of pupils, conferences between the teachers and the pupils and meetings of the teachers with each other are a necessary part of the administration and conduct of a school. Section 10362 is, as pointed out in an opinion rendered by this department to Hon. Lloyd W. King, State Superintendent of Schools, on January 20, 1942, "merely a statute defining various terms used in the article and does not in any way provide or set forth a scheme of procedure or administration of school matters." The enrollment of pupils, their assignment to the various rooms and any meetings and conferences which tend to familiarize the teachers or the pupils with the work to be done in the ensuing school year, are, we believe, obviously a necessary part of school work.

Furthermore, as noted in your letter, the State Superintendent of Schools has ruled that such opening day was a school day within the meaning of the statute. What was said in State ex rel. Rose v. Job, 205 Mo. 1, is, we believe, especially applicable to the situation at hand. In that case our Supreme Court said:

"We are unwilling to disturb the practical construction given the statute by

those whose duties impose upon them the proper administration of the school laws of this state."

CONCLUSION

It is, therefore, the opinion of this department that the first day of school, which is spent in enrolling the pupils and in conferences and meetings, the purpose of which is to familiarize the students and teachers with the work to be done during the ensuing year, is a school day and should be included by the clerk of the school district as such when he makes his report to the county clerk.

Respectfully submitted,

ARTHUR O'KEEFE
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

AO'K:CP