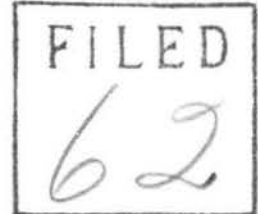


SCHOOLS: Schools having average of less than fifteen pupils in attendance may be closed by Board of Directors, State Superintendent of Schools, or by temporary combination for educational purposes. Boards of district schools under superintendency of county superintendent of schools shall set up bus routes. Assignment of pupils to school most accessible is duty of county superintendent of schools.

September 17, 1943



Mrs. Richard Mileham
Acting County Superintendent of Schools
Clark County
Kahoka, Missouri

Dear Mrs. Mileham:

This is in reply to your letter of September 10th, 1943, requesting an opinion from this department. Your letter reads as follows:

"If a school has less than fifteen pupils can a school board decide to close the school for the year and transport the pupils?"

"Who is to set up the bus route?"

"If one family lives on the extreme north of the district and have never sent their children to this district when it was operating must the school board furnish transportation for them now that the school is closed?"

"Will you please answer these questions for me?"

"If I have not been specific or clear enough please let me know and I'll be glad to explain the situation more in detail."

Since your letter does not indicate which, of three plans provided in our statutes for the closing of schools

you contemplate using, we set out the various statutes as they might apply in this case.

Schools with less than fifteen pupils may be closed under the provisions of various statutes:

Section 10324 R. S. Mo. 1939, after providing for the maintenance of school for an eight months' term, reads:

"* * * Provided, that in any district enumerating fewer than twenty-five children the board may, from year to year, arrange with the board or boards of other district or districts for the admission of all children of school age in said district containing fewer than twenty-five children enumerated, and, if desired, arrange for transporting children to and from school. And, when ratified by a two-thirds vote of the qualified voters of said school district, voting at a special meeting, such arrangements shall be final, and the board will be authorized to issue warrants upon the teachers' fund for payment of tuition, and upon the incidental fund for the payment of cost of transporting pupils."

Under Section 10464, R. S. Mo. 1939, we find:

"If any district in this state shall have an average daily attendance of less than 15 pupils as shown by the records of the last previous school year, the state superintendent shall, in lieu of such state aid, after investigation that convinces him that it would be to the best interests of all concerned, require the board to provide for the transportation of the pupils of such district to other public school or schools, provided that the total expense, including transportation and tuition paid

by the state, shall not exceed the amount that the state would have otherwise paid to such district."

Section 10457, R. S. Mo. 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."

It would seem from the foregoing that under that portion of Section 10324, R. S. Mo. 1939, under our scrutiny, a school may be closed by the board of the district and the question of transportation must be ratified by a two-thirds vote of the qualified voters. Under this arrangement the teachers' fund of the district defrays the tuition charges and the incidental fund the cost of transportation to the other district.

Under Section 10464, R. S. Mo. 1939, the State Superintendent of Schools may close a school in a district if the school has an average attendance of less than fifteen pupils. He may require the directors to arrange transportation of pupils and the expense incident thereto. Under this section, both the teachers' fund and the incidental fund may be used to pay transportation as well as tuition costs.

Under Section 10457, R. S. Mo. 1939, which provides for a temporary combination for educational purposes, it is contemplated that the districts are to pool their funds for the payment of teachers' salaries. The purpose of such a consolidation being a conservation of expenses, it would seem that under such

an arrangement the pro rata expense is borne by the participating districts.

In discussing the matter of transportation, we call your attention to the provisions of Section 10327, R. S. Mo. 1939. Because of its extreme length we do not set this section out in detail but merely cite same for your future study.

Devoting our attention to the next question raised in your letter, "Who is to set up the bus route?" we find, at Section 10327-a, Laws of Missouri 1941, page 547, the following:

"The county superintendent of schools in each county of the state shall act as supervisor of school transportation established by common school districts. It shall be his duty to confer with and advise the school boards of common school districts of his county in all matters pertaining to school transportation and he shall assist such school boards of his county in establishing routes and contracting with drivers, and his office shall be available to the school boards in his county for meetings for the purpose of solving their transportation problems. * * * *"

Coming now to the problem of the family living in the extreme north of the district, we find Section 10461, R. S. Mo. 1939, would apply in this case. This section reads:

"Whenever any pupil is so located that an adjoining school is more accessible, the county superintendent shall have the power and it shall be his duty to assign such pupil to such adjoining district: Provided, if a school district shall be divided by a county line, or it is deemed advisable to assign pupils to a district in an adjoining county, then the county superintendent of the county wherein the pupil resides shall make the assignment,

subject to an appeal to the state superintendent by any county superintendent whose county is affected, and the decision of the state superintendent shall be final: Provided, the attendance of such assigned pupil shall be credited for the purpose of apportionment of state funds to the district in which the student lives, and the board of directors of the district in which said student lives shall pay the tuition of such pupil or pupils so assigned: Provided, such tuition shall not exceed the pro rata cost of instruction."

CONCLUSION

It is, therefore, the opinion of this office that a school having less than fifteen pupils in average attendance for the preceding year may be closed (1) by action of the board, subject to approval of the vote of two-thirds majority of the qualified voters in the district; (2) by the State Superintendent of Schools; and, (3) by a temporary combination for educational purposes with other schools.

It is further the opinion of this department that transportation of school pupils, the establishing of routes, and contracting with drivers, etc., are duties devolving on school boards of common school districts, with the assistance, advice and superintendance of the County Superintendent of Schools.

And, further, that the assignment of pupils to the most accessible district is a duty incumbent on the County Superintendent of Schools.

Respectfully submitted,

L. I. MORRIS

Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

LIM:CP