

SCHOOLS: When tuition and transportation fees of pupils of a closed district may be paid out of teachers' fund.

~~See opinion to Matt
H. President April 5, 1951
holding tuition
payable out of
teachers or incidental fund.~~
November 14, 1942

FILED
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Mr. Thomas P. O'Rourke
County Treasurer
Edina, Missouri

Dear Sir:

We have your letter of November 14, 1942, in which you submit the following for an opinion:

"Will you please advise me on Closed School as to Funds. I have been holding that Tuition and Transportation can be paid out of either Teachers or Incidental Funds. On Insurance, Clerk Fees, Repairs on School Houses, or any other Incidentals, I am holding that they should be paid out of Incidental. Some Schools can't see if they get short in Incident 1 Fund why they can't pay a Warrant out of Teachers Fund."

Your request does not state why the school was closed. There are several sections of the statutes regarding the transporting of pupils and the payment of their tuition when the school of a local district is closed. We must, therefore, look to the different statutes with regard to such matters to determine what provision is made in each case. We are assuming that you are inquiring about common school districts, and this opinion will proceed on that assumption.

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

" * * * 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."

It will be seen that in case a school is closed under the conditions set forth in the foregoing section, the tuition for the pupils is to be paid from the teachers' fund, but the cost of transporting such pupils is to be paid from the incidental fund.

Section 10464, R. S. Mo. 1939, reads as follows:

"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."

By the foregoing section provision is made for closing a school if the average daily attendance is less than fifteen pupils, upon the request of the state superintendent. The section provides that the total expense of transporting said pupils and paying their tuition shall not exceed the amount that the state would have otherwise paid to such district. What the state would have otherwise paid to such district would have gone into the teachers' fund. (Section 10366, R. S. Mo. 1939.) We believe that said section contemplates that where the state superintendent requires the school to be closed and the pupils to be transported, both the teachers' fund and the incidental fund of the district can be used to pay for the cost of such transportation and the tuition of the pupils. The teachers' fund in that case could be used to pay either of said expenses.

In addition to the two foregoing sections, there is another case where it might be said that a school is closed and provision made for transporting its pupils. That situation is where two or more districts combine in accordance with the provisions of Section 10457, R. S. Mo. 1939. We are enclosing herewith a copy of an opinion rendered by this office on October 27, 1942, regarding the use of teachers' funds for payment of the expenses of pupils under such combination.

CONCLUSION

It is, therefore, the opinion of this office that in case any common school district is closed because it has enumerated less than twenty-five children, the board may pay the tuition of such children to another school out of the teachers' fund, and may pay the expense of transporting such children out of the incidental fund.

Mr. Thomas P. O'Rourke

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November 18, 1942

It is further the opinion of this office that where the state superintendent requires a board of a district, where the average daily attendance for the last previous school year was less than fifteen pupils, to transport such pupils to another district, the tuition and transportation expenses may be paid out of either the teachers' fund or the incidental fund.

Respectfully submitted

HARRY H. KAY
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

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