

COUNTY BOARDS OF EDUCATION: All residents of a school district
ELECTIONS: shall vote as prescribed by law upon
SCHOOLS: the county board of education (Section
SCHOOL DISTRICTS: 165.657, RSMo 1963 Cum. Supp.) which
has jurisdiction over their district
regardless of what county the voter lives in. Where a part of a
school district projects outside the county and is contiguous to
both county court districts, the county court district line is to
be also projected so as to bisect the whole district and all voters
of the district are to vote upon those members of the county board
of education to be elected from the area on that side of the bi-
secting line in which the voter resides.

March 18, 1964

Opinion No. 133

Honorable Rolin T. Boulware
Prosecuting Attorney
Shelby County
Shelbyville, Missouri

FILED
133

Dear Mr. Boulware:

This opinion is issued in response to your request of
March 12, 1964, for an official opinion of this office.

Your inquiry relates to Section 165.657, RSMo 1963 Supp.
This statute creates county boards of education and provides
for their election. We understand the facts from which your
inquiry arises to be as follows: The Shelby County R-IV
Reorganized School District overlaps the Shelby County - Monroe
County line. The Shelby County School District also overlaps
the line which divides the Eastern and Western County Court
Districts of Shelby County. The part of the Shelby County
School District which lies outside Shelby County and in Monroe
County is contiguous to both the Eastern and the Western County
Court Districts of Shelby County. For clarity, we illustrate
these facts by the map sketch attached at the end of this
opinion.

We understand your inquiry to be twofold:

1. Do those residents of the Shelby County R-IV Reorganized
School District who live outside Shelby County and in Monroe
County vote on the Shelby County Board of Education or on the
Monroe County Board of Education?

2. If these people vote for the Shelby County Board of
Education, do they vote for the members to be elected from the
Eastern County Court District of Shelby County or for members
to be elected from the Western County Court District of Shelby
County?

At the beginning let us clearly define the nature of school districts and their relationship to counties. School districts are political subdivisions in themselves, as are counties. School districts are separate legal entities from counties.

"The school districts are organized as separate legal entities. School Dist. No. 7 v. School Dist. of St. Joseph, 184 Mo. 140, 156, 82 S.W. 1082, 1086. They are public corporations, form an integral part of the state, and constitute that arm or instrumentality thereof discharging the constitutionally intrusted governmental function of imparting knowledge and intelligence to the youth of the state that the rights and liberties of the people be preserved." School Dist. of Oakland v. School Dist. of Joplin, Mo., 102 S.W.2d 909, 910.

Accord: State v. Holmes, Mo., 231 S.W.2d 185, 193; 78 C.J.S., Schools and School Districts, §25b. Being separate entities, territorial boundaries of school districts do not and need not coincide with nor respect the boundaries of counties or other political subdivisions.

By Section 165.657 et seq., the Legislature has created county boards of education and for certain purposes placed all school districts under the jurisdiction of a county board. Where a county board of education has authority over a school district it has authority over the whole district regardless of the fact that part of the district may lie in another county. Note, for example, Section 165.677, RSMo 1959, which provides that where a reorganized district is created with territory in more than one county, the district will belong to the county containing the greater portion of the district's assessed valuation.

The territorial boundaries of a county board of education are co-extensive with the territorial boundaries of the school districts within the county board's authority. The name county board of education is somewhat misleading because as school districts are separate political entities and may overlap county lines, so also the territorial boundaries of the authority of a county board of education may overlap county lines. The territorial authority of the county board and the boundaries of the county need not be co-extensive.

In a manner of speaking, the outside boundaries of the school districts which are under the jurisdiction of a particular county board of education define a confederation of separate legal entities. This "confederation" is referred to by the name of the county which most closely coincides with its boundaries.

I.

Having so defined the relationship of counties and school districts, let us resolve your first question. In the present case, Shelby County R-IV School District apparently is under the authority of the Shelby County Board of Education, and although a smaller part of the district lies outside of Shelby County, the whole district is under the jurisdiction of the Shelby County Board of Education. It follows that all residents of the Shelby R-IV District shall vote upon the Shelby County Board of Education, which board has jurisdiction over their district. This, regardless of whether the voter lives in Shelby County, Monroe County or any other county.

It is our opinion that all residents of a school district shall vote upon the county board of education which has jurisdiction over their school district regardless of what county the voter lives in. As applied to your instant inquiry, those residents of Shelby County R-IV Reorganized District who live in Monroe County are to vote upon candidates for the Shelby County Board of Education and not for candidates for the Monroe County Board of Education.

II.

Having determined that all residents of a school district are to vote for the county board of education which has jurisdiction of their district, we turn to determine which members they shall vote upon, those to be elected from the Eastern or those from the Western County Court District of Shelby County.

In a prior opinion this office has ruled that in second, third and fourth class counties the three members to be elected from each county court district shall be elected only by the voters of their respective area. (Opinion No. 14 issued January 10, 1964, to Darold Jenkins.)

In creating county boards of education the Legislature limited the membership of the six-member board to not more than three members from one county court district. This limitation prevents one area from controlling the membership of the board. The Legislature could have divided the territory of the county board of education in any fashion. Rather than

establishing a new line to divide the area into two major parts, the Legislature adopted an existing dividing line, the county court district line. This dividing line has no peculiar significance other than to implement the Legislature's intent to distribute the membership of the board.

Under the laws of this State, school district boundaries are not limited by either county court district or county lines. School districts, as evidenced by the Shelby County R-IV district, do overlap both county court district and county boundaries. The Legislature enacted the laws that make this overlapping possible. We must presume the Legislature, being aware of the clear effect of its enactments, knew that school districts overlapped both county court district and county boundaries.

Being aware of this overlapping, the Legislature adopted the county court district line as a dividing line. This line bisects school districts wholly within a county. Nothing in Section 165.657 indicates that parts of school districts which lie outside of a county should be treated differently.

Therefore, it is our opinion that where a part of a school district, contiguous to both county court districts, projects outside of the county, the county court district line should also be projected outside the county bisecting the part. Accordingly, the residents of the part of district contiguous to one county court district would vote for members to be elected from that county court district and the residents of the part contiguous to the other county court district would vote for members to be elected from that district. That is, the residents of the part of the school district outside the county will vote in the same manner and for the same candidates as those residents of the part of the school district within the county.

The Shelby County Court District line runs north and south. Applying our ruling to your instant inquiry: The line would be projected south bisecting that part of Shelby County R-IV School District which lies outside the county. (See map sketch infra.) Those living east of the projected line would vote for the Shelby County Board of Education members to be elected from the Eastern County Court District and those living west of the line for the Western District members.

To answer both questions presented here as succinctly as possible: All residents of a school district vote upon the county board of education which has jurisdiction over their school district and upon those members to be elected from the area on that side of the county court district line in which the voter resides.

March 18, 1964

The first election of county boards of education under Section 165.657, RSMo 1963 Supp., is to be held April 7, 1964. The conclusions expressed in this opinion concern the conduct of that election. The right to vote upon those who represent us is a cardinal principle of our democratic society. We are concerned that all residents of all parts of all school districts have the opportunity to vote as prescribed by law and that this right not be frustrated by misunderstanding. Therefore, we have requested the Department of Education to promptly forward copies of this opinion to those charged with conducting the election.

CONCLUSION

Therefore, it is the opinion of this office:

1. That all residents of a school district shall vote as prescribed by law upon the county board of education (Section 165.657, RSMo 1963 Supp) which has jurisdiction over their district regardless of what county the voter lives in.
2. That where a part of a school district projects outside the county and is contiguous to both county court districts, the county court district line is to be also projected so as to bisect the whole district and all voters of the district are to vote upon those members of the county board of education to be elected from the area on that side of the bisecting line in which the voter resides.

The foregoing opinion which I hereby approve was prepared by my assistant, Louis C. DeFeo, Jr.

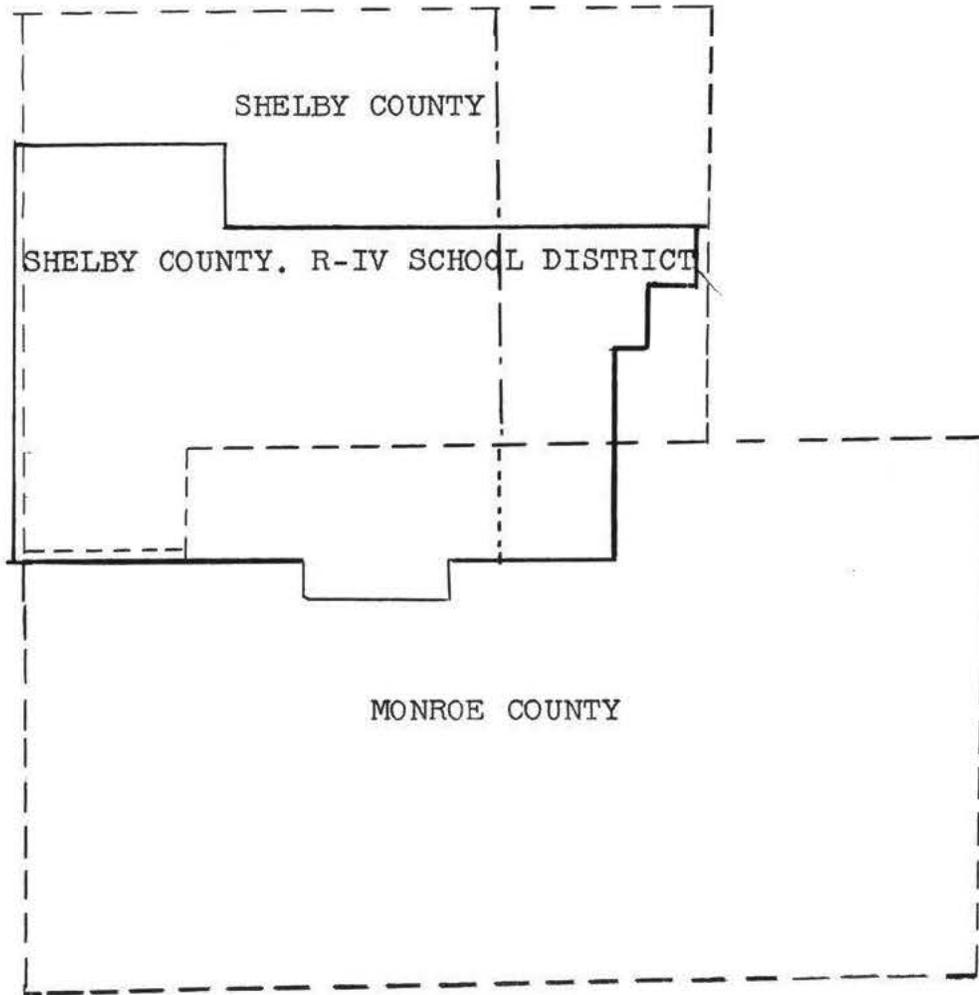
Yours very truly,


THOMAS F. EAGLETON
Attorney General

Attachment

Opinion No. 133

March 18, 1964



- Shelby Co. R-IV School District Boundary
- County Boundary Lines
- .-.-.- County Court District Line of Shelby County
- Projection of County Court District Line
into Monroe County.