

SCHOOLS:

Two or more three-director (common) school districts cannot organize into a six-director district.

OPINION NO. 433

November 25, 1970

Honorable John T. Russell  
State Representative  
District No. 125  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Russell:

This is in response to your request for an opinion concerning the school reorganization laws contained in Chapter 162 of the Revised Missouri Statutes. Specifically, you have asked whether two or more three-director (common) school districts can organize into a reorganized six-director district and then proceed to hold a special election to elect the new six-director school board.

Section 162.211, RSMo 1969, provides:

"A six-director school district may be established by the voters of

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"(4) Any common school district which has two hundred or more children of school age by the last enumeration or any two or more adjacent common school districts which together have an area of fifty square miles or have an enumeration of at least two hundred children of school age."

Section 162.221, RSMo 1969, sets forth the procedure for organizing a proposed six-director district by voters of the above enumerated common or three-director districts. Adoption of the proposed six-director district can only be accomplished by a majority vote of the qualified residents of the proposed school district at a special election held pursuant to Section 162.191, RSMo 1969.

It is clear then that these statutes provide a method for creating a six-director school district by the voters of a common or three-director school district which has two hundred or more children of school age or by the voters of any two or more adjacent

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common or three-director school districts which together have an area of fifty square miles or at least two hundred children of school age.

However, a new section was added to Chapter 162 by the 75th General Assembly, in 1969. Section 162.096, sub. 2, RSMo 1969, which became effective on August 25, 1969, provides:

"2. If any school district is not operating as a six-director school district and has not combined its territory with that of one or more districts which do operate as a six-director district through one of the procedures provided by law within three years after August 25, 1969, the state board of education shall assign the territory of the district to one or more districts which do operate a high school. The assignments shall be announced not later than January 15, 1973." (Laws 1969, S.B. 187)

This section is clearly contrary to the provisions of Section 162.211(4). It specifically provides that any three-director school district operating in this state subsequent to August 25, 1969, must combine its territory with that of one or more districts which are operating as a six-director district within three years or be assigned to such a district by the State Board of Education. Although repeals by implication are not favored, the Missouri Supreme Court has said that such a result must be reached where two statutes are so repugnant that both cannot stand. *State ex rel. Preisler v. Toberman*, 364 Mo. 904, 269 S.W.2d 753, 754 (banc 1954); *Kansas City Terminal Railway Company v. Industrial Commission*, 396 S.W.2d 678, 683 (Mo. 1965). Where two acts are repugnant, the later act, without any repealing cause, operates to the extent of the repugnancy as to repeal the first. *City of Kirkwood v. Allen*, 399 S.W.2d 30, 34 (Mo. banc 1966). As the latest pronouncement of the legislature's will, Section 162.096, sub. 2, is controlling and must be given full effect.

Inasmuch as Section 162.096, sub. 2, RSMo 1969, provides that a three-director district can no longer combine with another three-director district to form a six-director district, the procedure for doing so as contained in Section 162.221, RSMo 1969, is no longer applicable.

#### CONCLUSION

Therefore, it is the opinion of this office that two or more three-director (common) school districts cannot organize into a six-director district.

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The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard L. Wieler.

Yours very truly,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

JOHN C. DANFORTH  
Attorney General