

SCHOOLS: Portion of district cannot be annexed to city district unless at least thirty (30) children remain in the district.

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Mr. Davis Benning
President, Board of Education
Louisiana, Missouri

Dear Sir:

This will acknowledge receipt of your recent request for an opinion, which request reads as follows:

"I am writing you for the Louisiana Board of Education to ask your office for an opinion on one provision in Section 10484 Revised Statutes Missouri 1939.

"The United States Government is constructing an ammonia plant near Louisiana and is contemplating the construction of a housing project for employees of the plant. The government plans to acquire a tract of 12 acres for this housing project, the 12 acre tract lying near Louisiana and immediately adjacent to the Louisiana School District, and wants this tract annexed to the Louisiana School District. It now is a part of what is known as the Buffalo School District.

"Section 10484 above referred to provides the method and procedure by which the annexation can be made and provides further 'that portion of the district remaining must contain within its limits thirty children and thirty thousand dollars assessed valuation

or thirty children and nine square miles of territory.'

"The Buffalo School District only contains at the present time fifteen children and would therefore have less than thirty children left in it after the proposed annexation, even though no children would be taken from it by the annexation of the 12 acres. The remaining part of the district would still have more than thirty thousand dollars in assessed valuation.

"Query: If all of the provisions of Section 10484 were complied with in the proposed annexation, except that there would be less than thirty children left in the remaining portion of Buffalo District, would the annexation proceedings be invalid, when there were less than thirty children before the annexation?

"The government authorities here are anxious to have your opinion on this question as well as the Louisiana School District as they want to start the housing project as soon as possible and want very much to use the proposed site."

Section 10484, R. S. Mo. 1939, after providing for an election to determine whether a part of a district adjoining a city, town or village school district desires to be annexed to such other district, provides:

"* * *Should a majority of the votes cast favor such annexation, the secretary shall certify the fact, with a copy of the record, to the board of said district and to the board of said city, town or village school district; whereupon the board of such city, town or village district shall meet to

consider the advisability of receiving such territory, and should a majority of all the members of said board favor such annexation, the boundary lines of such city or town school district shall from that date be changed so as to include said territory, and said board shall immediately notify the clerk of said district which has been annexed, in whole or in part, of its action. In case an entire district is thus annexed, all property and money on hand thereto belonging shall immediately pass into the possession of the board of said city or town school district; but should only a part of a district be annexed thereto, said part shall relinquish all claim and title to any part of the school property and money on hand belonging to said original district, and that portion of the district remaining must contain within its limits thirty children and thirty thousand dollars assessed valuation, or thirty children and nine square miles of territory. * *"

The first sentence of the foregoing quotation, standing alone, would indicate that when the necessary vote was certified in to the city, town or village district and the board of such latter district approved the annexation, the boundary lines would thereupon be changed. However, the second sentence provides for a division of the property of the district so voting to join the city district, and then provides that "that portion of the district remaining must contain within its limits thirty children and thirty thousand dollars assessed valuation, or thirty children and nine square miles of territory." This latter language of the quotation is very clear and distinct. The Legislature evidently did not want a district to be divided up so that the portion remaining should be too small either in territory, assessed valuation or enumeration to carry on a public school. While the school district you inquire about does not now contain

thirty children, yet it does contain the necessary territory and valuation which the Legislature deemed the minimum for maintaining a school.

It is a well established rule of the courts that in construing a statute all of the statute must be given effect. The rule was stated in the case of DeJarnett v. Tickameyer, 328 Mo. 153, 40 S. W. (2d) 686, 687, as follows:

"All provisions of the statute should be considered in determining the meaning of any particular portion thereof, and effect given to every part of the statute where it is possible to do so."

To give any effect and meaning to the provision as to the amount of territory and assessed valuation and school enumeration, we must necessarily take the language for what it says, and such language necessarily limits the right of a district to allow a portion of its territory to be annexed to a city, town or village school district.

Conclusion

It is therefore the opinion of this office that a portion of a school district cannot be adjoined to a city, town or village school district unless there remain in the district so desiring to be annexed at least thirty children. In addition to said amount of children there are requirements as to valuation or territory, but these are not in question in the case you inquire about.

Respectfully submitted,

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APPROVED:

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Attorney-General

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