

6  
2  
SCHOOLS. : Money received by consolidated district  
: from consolidation of school house  
: must be paid into "Building Fund."  
:

---

October 27, 1944

Honorable Wayne V. Slankard  
Prosecuting Attorney  
Newton County  
Neosho, Missouri

11/10

FILE  
83

Dear Mr. Slankard:

This will acknowledge the receipt of your letter of October 17, requesting an opinion of this office, which is as follows:

"I would like your opinion on the following:

"A consolidated school district in this county had one of their school sites and school houses taken by condemnation for Camp Crowder. The funds constituting the proceeds of this condemnation were deposited by the Board of Directors in their building fund. They do not contemplate building a new high school to replace the one taken since they are so near Neosho and want to know whether or not they can transfer these funds to the incidental fund."

Section 10366 Laws of Missouri, 1943, p. 893 provides:

"All school moneys received by a school district shall be disbursed only for the purposes for which they were levied, collected, or received. \* \* \* All moneys derived from taxation or received from the state for the erection of school buildings, from sale of school sites, school house or school furniture, from insurance, from sale of bonds shall be placed to the credit of the "Building Fund".

Section 10471 R. S. Mo., 1939, provides:

"When the demands of the district require more than one public school building therein, the board shall, as soon as sufficient funds have been provided therefor, establish an adequate number of primary or ward schools, corresponding in grade to those of other public school districts, and for this purpose the board shall divide the school district into school wards and fix the boundaries thereof, and the board shall select and procure a site in each newly formed ward and erect a suitable school building thereon and furnish the same; and the board may also establish schools of a higher grade, in which studies not enumerated in section 10627 may be pursued; and whenever there is within the district any school property that is no longer required for the use of the district, the board is hereby authorized to advertise, sell and convey the same, and the proceeds derived therefrom shall be placed to the credit of the building fund of such district. (R. S. 1929, Sec. 9330.)"

Your letter states that the district here is a consolidated school district and it is difficult to see how it would not come within the specific provisions of Sec. 10471 and 10366, which require the money from the sale of school sites to be placed in the "building fund."

Before the amendment of Sec. 10366 by the 1943 session of the legislature there was a provision to the effect that if there was a balance remaining in the building fund after the purpose for which said fund was levied was accomplished the board would have the power to transfer the balance to the incidental fund. However, this provision was left out of the section by the amendment of 1943.

It should also be pointed out that the money originally obtained to build the school was obtained by taxation for that particular purpose. Section 10366 supra, also contains the provision that money received by a school district shall be disbursed only for the purposes for which they were levied, collected or received. It would seem therefore, that the money received from the condemnation of this building would still be dedicated to the purpose for which it was originally obtained.

Hon. Wayne V. Slankard

-3-

Oct. 27, 1944

CONCLUSION.

It is therefore the opinion of this office that money received by a consolidated school district through condemnation of a school house must be paid into the "Building Fund" of the district.

Respectfully submitted

ROBERT J. FLANAGAN  
Assistant Attorney General

RJF:LeC

APPROVED:

VANE C. THURLO  
Acting Attorney General