

SCHOOLS: School districts may combine temporarily for educational purposes even though districts are not adjacent to each other.



8/28

August 25, 1947

Mr. Hubert Wheeler, Commissioner
Department of Education
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your request for an official opinion, which reads as follows:

"Inquiry has come to the Department of Education about the laws of this State governing the formation of new school districts and the laws relating to educational facilities that may be provided in other schools outside of the district.

"In St. Louis County the area commonly known as Jefferson Barracks is now a temporary Federal housing unit. This area, together with a small additional adjacent territory is not organized as a school district, therefore no plan is available for providing public school facilities for the pupils now resident of this unorganized territory. Plans are now being made for the organization of said territory into a public school district.

"At this late date it would be difficult to provide adequate housing facilities within the Jefferson Barracks area if it should be formed into a new school district. Therefore at least for the first year, the board for the proposed organized district would find it necessary to arrange with the board of education of a nearby district for school facilities.

"Section 10457, R. S. 1939 provides for the temporary combination of school districts for educational purposes. Because of the large number of pupils,

Mr. Hubert Wheeler

August 25, 1947

approximately 700 of common school age, it would be impossible for this proposed district to make temporary combination with any other adjacent school district on account of limited housing accommodations.

"I am advised that the Board of Education of St. Louis City has indicated their willingness to accept all school age pupils from the Jefferson Barracks area if proper arrangements can be made. The Jefferson Barracks area does not join St. Louis City. There is a narrow strip of another school district extending between this area and the St. Louis City school district. Therefore some question has arisen as to the possibility of the Board of Education of St. Louis City and the school board of the proposed new district of Jefferson Barracks making temporary combination for educational purposes.

"I shall appreciate your advice and official opinion in regard to the following question:

- "1. If the proposed new district in the Jefferson Barracks area should be organized, would the school board of this district have authority to form a temporary combination with the Board of Education of St. Louis City for educational purposes, since there is a narrow strip of territory of another school district lying between Jefferson Barracks and St. Louis City which prevents the two areas from being adjacent? In other words, may school districts form temporary combination under the provisions of Section 10457 when such school districts do not join?"

Section 10457, R. S. Mo. 1939 provides in part as follows:

"Two or more districts may combine temporarily for educational purposes should the school boards of all districts concerned agree to transport the pupils of one or more

districts to a schoolhouse elsewhere, and such districts shall receive the same apportionment from the state school fund as they would otherwise have received, and may use such funds, or any part thereof, in transporting pupils: * * * * *

It is the cardinal rule of statutory construction that in construing a statute the court shall ascertain and give effect to the intention or purpose of the Legislature as expressed in the statute. Thompson v. City of Lamarr, 322 Mo. 514, 17 S. W. (2d) 960; State v. Southwestern Bell Telephone Company, 316 Mo. 1008, 292 S. W. 1037.

The intention of the Legislature is to be obtained primarily in the language used in the statute. Grier v. Kansas City Railway Company, 286 Mo. 523, 228 S. W. 454. It is further the rule in this state that statutes relating to schools and school districts are to be liberally construed. Hudgins v. Mooresville Consol. School Dist., 312 Mo. 1, 278 S. W. 769. As the Supreme Court said in State v. Morgan, 268 Mo. 265, 187 S. W. 54, l. c. 57:

"It has been the policy of this court, in construing the statutes relating to schools and school districts, to give them a liberal construction. * * * * *

A reading of Section 10457, supra, discloses that there is no requirement that the school districts which combine temporarily for educational purposes should be adjacent or contiguous to each other. There are no restrictions as to location of the school districts, but the question as to temporary combination is left entirely to the discretion of the combining districts. In this respect it will be noted that those statutes referring to annexation and consolidation of school districts provide that the district or districts must be adjacent. (See Sections 10484, 10486, 10487, 10497 R. S. Mo. 1939)

If the Legislature had intended that school districts combining temporarily for educational purposes should be adjacent to each other they could have well said so in Section 10457, supra, as they did in the other statutes mentioned above.

Therefore, we believe that the school district organized in the Jefferson Barracks area may form a temporary combination with the

Mr. Hubert Wheeler

August 25, 1947

Board of Education of the City of St. Louis, even though the Jefferson Barracks school district is not adjacent to St. Louis City.

CONCLUSION

It is therefore the opinion of this department that under authority of Section 10457, R. S. Mo. 1939, a school district organized at Jefferson Barracks, Missouri, may combine temporarily for educational purposes with the Board of Education of St. Louis City, even though the Jefferson Barracks school district is not adjacent to the City of St. Louis.

Respectfully submitted

ARTHUR M. O'KEEFE
Assistant Attorney General

APPROVED

J. E. TAYLOR
Attorney General

AMO'K:MA