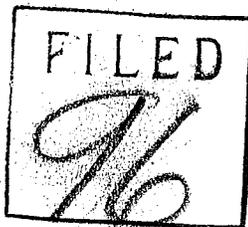


SCHOOLS: School district temporarily combined with another district under Sec. 161.100, RSMo 1949, must employ teacher and show kind of certificate held by teacher in order to qualify for maximum apportionment of state school money.

SCHOOL DISTRICTS:



February 4, 1954

Honorable Hubert Wheeler
Commissioner, Department of Education
Jefferson City, Missouri

Dear Mr. Wheeler:

This is in response to your request for an opinion received in this office on December 30, 1953, which reads, in part, as follows:

"In the temporary combination of school districts as provided in section 161.100, RSMo 1949, is it necessary for the school board of the sending district to employ a teacher and show the kind of certificate held in order to qualify for the maximum apportionment of state school money?"

The section which provides for temporary combination of school districts is 161.100, RSMo 1949, which reads 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; provided further, that in such temporary combinations the record of daily attendance of pupils from each district shall be kept separate, and credited to their respective districts, as a basis for future apportionments."

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It is pertinent to note that under that section school districts making a temporary combination with another receiving district shall receive the same apportionment from the state school funds as they would have otherwise received and that the daily attendance of pupils shall be kept separate and credited to their respective districts as a basis for future apportionments.

The school laws define and establish the basis for the state school moneys. Section 161.020, RSMo 1949, defines the teaching unit as a basis for the apportionment of school moneys and provides, in part, that the previous year's attendance shall not exceed the number of teachers employed. Section 161.030, RSMo 1949, requires the apportionment of state school money and provides that "no teacher * * * who is not paid by the school board from public funds of the district shall be counted." This law, in Subsection 2 thereof, further provides for the reporting of the number of teachers employed, the salary of the teacher and any other information that may be required by the State Board of Education. Section 161.040, RSMo 1949, provides for the basic apportionment of state school moneys determined on teaching unit guarantees or amounts. Pursuant to Section 161.030, Subsection 2, supra, the State Board of Education has required that the district indicate that a teacher has been employed by the sending district and that it report the kind of certificate held by the teacher and the salary agreement in order to qualify for the maximum apportionments.

In order to establish a teaching unit and to determine the amount for the apportionment under Section 161.040, supra, a teacher must be employed by the district and the kind of teaching certificate held indicated. Without such compliance there would be no way to calculate the amount of school money due the district.

In State ex rel. Worsham v. Ellis, 329 Mo. 124, 44 S.W. (2d) 129, 130, the court said:

" * * * But, answering this objection directly, the statutes seem to contemplate that a teacher be employed by contract before a school district can apply for state aid. * * *"

Therefore, we believe it is clear that under a temporary combination of school districts as provided in Section 161.100, supra, it is necessary for the sending district to employ a

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teacher by contract and under the reporting requirement of the State Board of Education to show the kind of certificate held by the teacher in order for the district to qualify for the maximum apportionment of state school money.

CONCLUSION

It is the opinion of this office that when a district combines temporarily with another school district as provided in Section 161.100, RSMo 1949, and transports its pupils to a schoolhouse in another district, it is necessary for the school board of the sending district to employ a teacher and show the kind of certificate held by the teacher in order that the sending district qualify for the maximum apportionment of state school money.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON
Attorney General

JWI:ml