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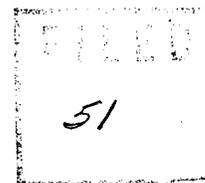
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DIRECT DIAL:

February 8, 1984

OPINION LETTER NO. 51-84
(Amended Copy)

The Honorable Nelson B. Tinnin
Senator, District 25
State Capitol Building, Room 333
Jefferson City, Missouri 65101



Dear Senator Tinnin:

This letter is in response to your question asking:

Does Missouri State law provide a mechanism for "deconsolidating" a school district? May a portion of a reorganized school district be severed, and recognized as a separate school district?

This question arose from the following facts, as stated in your opinion request:

Sometime during the 1950s, the Portageville School District, in New Madrid County, merged with five surrounding school districts to form the Portageville Reorganized District.

During 1968-1969, the Portageville Reorganized District merged with the New Madrid School District, to form the New Madrid R1 School District. At the time of this second merger, Portageville had a high school with complete curriculum. The reason Portageville joined with New Madrid was to qualify for a vocational school.

During the years since the second merger, many Portageville residents, including the mayor and former school board members, have become increasingly dissatisfied with what they see as a progressive dismantling of the Portageville School system. They have alleged that their high school no longer has the

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sufficient required units of instruction to grant diplomas; schools in Portageville are not funded equally to those in New Madrid; and in many other respects, the Portageville schools.

As a result, many Portageville residents would like to sever their connection with the New Madrid R-1 School district, and establish a district with boundaries similar to the Portageville Reorganized District prior to the 1968-1969 merger.

For purposes of this opinion letter, we assume that the New Madrid R-1 School District is a reorganized school district and is not a consolidated six-director school district as defined in Section 162.223, RSMo 1978.

Relying upon Hydesburg Common School Dist. of Ralls County v. Rensselaer Common School Dist. of Ralls County, 218 S.W.2d 833 (Mo. App. 1949), and State Ex inf. McGinnis ex rel. Kemble v. Consolidated School Dist. No. 3, Pike County, 277 Mo. 28, 209 S.W. 96 (banc 1919), in Opinion No. 89, Thomasson, April 7, 1954 (copy enclosed), this office concluded that when a school district is consolidated with one or more school districts, it loses its identity, is merged indistinguishably with the other district or districts, and thereby cannot be voted out of the consolidated school district. See also State ex inf. Conkling ex rel. Hendricks v. Sweaney, 270 Mo. 685, 195 S.W. 714 (banc 1917) (no procedure to divide consolidated districts). This rule applies to reorganized school districts such as the New Madrid R-1 School District. Spiking School Dist. No. 71, DeKalb County, et al. v. Purported "Enlarged School District R-II, DeKalb County, Missouri," 362 Mo. 848, 245 S.W.2d 13 (banc 1952). This office reached a similar conclusion in Opinion No. 10, Boone, November 15, 1956 (copy enclosed). The preexisting school districts are not restored by the dissolution of a consolidated reorganized district, nor is there statutory authority to divide consolidated six-director districts or reorganized school districts into smaller districts.

This office is aware of the recently enacted Section 162.171, RSMo Supp. 1983, which from time to time would permit a county court to submit to the State Board of Education plans for the reorganization of school districts in the county pursuant to Section 161.152, RSMo 1978. However, Section 162.171, supra, limits this authority to unreorganized districts and certain reorganized

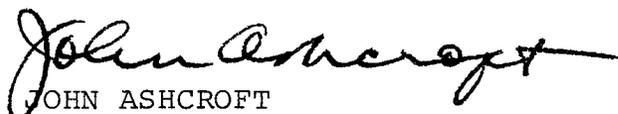
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districts. The facts presented in your opinion request suggest that the New Madrid R-1 School District is not one of these reorganized districts.

The New Madrid R-1 School District may elect to be dissolved pursuant to the procedure set forth in Section 162.451, RSMo 1978. However, this would leave the school district an "unorganized" territory which by election or county court action would be assigned and annexed to an adjoining school district under the mandate of Section 162.071, RSMo Supp. 1983, and would not restore the former Portageville Reorganized School District.

From the foregoing, it would appear that there is no provision in Missouri law to permit a reorganized school district to "deconsolidate" without eliminating totally the legal existence of the original districts and that a reorganized school district may not be subdivided and the parts thereof recognized as separate school districts.

Very truly yours,



JOHN ASHCROFT
Attorney General

Enclosures