

SCHOOLS: House Bill 227, Laws of Missouri, 1941, authorizes a common school district adjacent to a consolidated district to become consolidated with such consolidated district in a certain manner.

January 20, 1944.



Honorable Arthur U. Goodman, Jr.  
Prosecuting Attorney  
Kennett, Missouri

Dear Mr. Goodman:

The Attorney-General wishes to acknowledge receipt of your letter of January 11, 1944, in which you request an opinion from this department. This opinion request, omitting caption and signature, is as follows:

"Please furnish me an official opinion covering the following proposition, namely:

"Can a part of a common school district attach itself to or consolidate with an adjoining consolidated school district, and, if so, what is the proper procedure to be followed?"

In answer to your request as set out above, we wish to call your attention to House Bill 227, found on page 545, Laws of Missouri, 1941, as follows:

"Section 1. Adjacent districts may be consolidated and elect board members--how.-- Adjacent city, town, or consolidated school districts, without limitations as to size or enrollment, or one or more of the above mentioned districts and one or more adjacent common school districts may be organized into a consolidated school district for the purpose of maintaining elementary schools and high schools. Elections for the purpose of perfecting such consolidation shall be called by the county superintendent of schools of the county wherein

said districts lie, or jointly by two or more county superintendents if said districts lie in more than one county, on receipt of a petition signed by at least fifteen qualified voters from each district to be included in the proposed consolidation. Elections shall be called by posting in at least five public places in each of the original districts, notices stating the place, time, and purpose of such election. Said notices shall be signed by the county superintendent or superintendents issuing call and shall be posted at least fifteen days prior to said election. Separate elections shall be held on the same day in each district of the proposed consolidation. Each district election shall be conducted in the manner provided by law for that particular type of district. The results of these elections shall be certified to the county clerk or clerks and the county superintendent or superintendents of schools by the clerk and the president of the board of each of the respective districts. The county superintendent of the county in which the major portion of the proposed consolidated district is located shall within ten days declare the consolidation in effect, if the proposition received a majority of all votes cast in each district. He shall then prepare for the county clerk of his county a plat of the new district. He shall within ten days after certification of consolidation post notices for election of board members of such new district. For this purpose he may designate presidents of boards of original districts to direct election procedures which are to be conducted in the manner designated by law for consolidated districts. The directors of said consolidated district shall organize as per the provisions designated in Section

10470, and shall immediately assume charge of all school property lying in the consolidated district, and shall for said district assume all legal obligations of the component districts; provided, that should the proposed consolidation fail to carry, no new election for the purpose of consolidating the same districts may be held within a twelve-month period; and provided, further, that should any county superintendent fail or refuse to perform any of the duties enjoined upon him by this act, the State Superintendent of Schools shall perform such duty or duties."

We construe the above provision as authorizing a common school district to become attached to a consolidated district which is adjacent. However, in order that such consolidation take place, the procedure as outlined in the above statute should be followed.

It is necessary as a first step that there be presented to the superintendent of schools in the county in which the consolidation is requested, or if in more than one county, the superintendents of the schools of the different counties, a petition signed by at least fifteen taxpayers of both the common school district and the consolidated school district. After such petition has been presented, the superintendent of schools shall call elections in such school districts for the purpose of deciding whether or not the consolidation shall take place. The notices shall be signed by the county superintendent or superintendents. If the results of the election are favorable to the attachment of the common school district to the consolidated school district, it then becomes the duty of the superintendent of the county in which the major portion of the proposed consolidated district is located, to declare that the proposed consolidation is in effect. The statute cited above also sets out some other procedure which, however, can be understood by the reading of such statute.

It will be noted that in your request you ask whether or not a part of a common school district may attach itself to

or consolidate with an adjoining consolidated school district. We feel that by a study of the first sentence in the section of the Laws of 1941, cited above, it will be seen that the Legislature did not provide as to a part of a common school district but provided for one or more common school districts. It is our opinion that in order for a common school district to become attached to a consolidated district, it is necessary that the entire common school district be consolidated and we do not feel that there is any provision that a part of such school district can become consolidated with an adjacent consolidated district.

Conclusion.

Therefore, it is the opinion of this department that a part of a common school district cannot attach itself to or consolidate with an adjoining consolidated school district. It is further the opinion of this department that a common school district adjacent to a consolidated district may, by a favorable vote of the people in both the common school district and the consolidated school district, become a part of such consolidated school district.

Respectfully submitted,

JOHN S. PHILLIPS  
Assistant Attorney-General

APPROVED:

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ROY McKITTRICK  
Attorney-General

JSP:EG