

SCHOOLS: State Board of Education authorized to adjust and settle boundary dispute when matter is submitted by contending county boards of education under subparagraph (4) of Section 6, S. B. No. 307, Laws of Mo. 1947, Vol. II, p. 370.

June 8, 1949



Hon. Hubert Wheeler
Commissioner of Education
Division of Public Schools
Jefferson City, Missouri

Dear Mr. Wheeler:

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

"County boards of education, under the law governing school district reorganization have proposed in the various counties of this State specific plans for reorganization. In several of the counties it has become necessary to propose enlarged districts which includes territory in two or more counties. The boards of education of the counties involved have, in a number of cases, failed to agree on boundary locations. Such county boards have indicated their failure to reach a cooperative agreement and have presented their specific proposals to the State Board of Education for final decision.

"Paragraph 4 of Section 6, Senate Bill 307, page 373, of the 1947 Laws, Vol. II, provides that any and all reorganization questions shall be submitted to the State Board of Education for final decision. The State Board, in its consideration of disputed questions, has found it possible to designate one or the other proposals as acceptable. However in other cases of boundary disputes a different grouping of the districts than those proposed by the county boards seem to be advisable. The question involved is whether or not the State Board shall confine its decision to the specific proposals in dispute or use its discretion in adjusting the boundary to what would seem to be a more satisfactory boundary location.

"I shall be glad to have your advise and official opinion in answering the following question:

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- "1. Is the State Board required to make its decision on the specific boundary dispute as proposed by county boards of education or would it have power to make its decision by designating what would appear to be a more satisfactory boundary location within the disputed area?"

Under the provisions of subparagraph (4) of Section 6, of Senate Bill No. 307, Laws of Missouri 1947, Vol. II, page 370, each county board of education is directed to cooperate with boards of adjoining counties in the solution of common organization problems, and to submit to the State Board of Education for final decision any and all organization questions on which the cooperating boards fail to agree.

This school reorganization law contemplates that in certain instances the law's purpose will best be attained by so locating a reorganized district as to cause the boundaries thereof to lie in adjoining counties. With each county board of education facing the task of submitting its own county wide plan of reorganization to the State Board of Education, and such plan necessarily including in some instances proposed districts lying in different counties, the Legislature wisely anticipated the conflict in views that would arise between county boards of education. If such conflict could not be definitely resolved before each county board of education submitted its county wide plan of reorganization to the State Board of Education, the county board of education would not be in a position to submit a definite and workable plan in view of other provisions of the law which call for submission of the plan to voter approval after action by the State Board of Education.

The submission of a boundary dispute between two county boards of education to the State Board of Education under the provisions of subparagraph (4) of the law heretofore referred to will result in a final decision so necessary to allow each county board of education to get its county wide plan of reorganization in form to present to the State Board of Education for initial approval or disapproval. The question necessarily arises as to just how the State Board of Education may proceed to make a final decision on a boundary dispute between county boards of education touching this common organization problem. A final decision in such instances must result in a single boundary decision which will be incorporated in the county wide plan of reorganization to be submitted by each of the counties involved. A decision with less effect would not foster cooperation

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between the disputing boards of education. The final decision to be made in cases of this kind may be to a degree onerous to each of the disagreeing boards of education, but we find such a decision necessary to make the law feasible in its orderly administration.

If the State Board of Education, in making the final decision on a single boundary dispute, deems it necessary to veer from the plans and contentions of the disputing county boards of education, it may designate a boundary location within a disputed area, the same to become a part of the county wide plan of reorganization to be submitted by each contending county board of education. To hold otherwise would lead to unnecessary confusion in the workability of the law and would result in recognizing the authority of the State Board of Education to make a "final decision" in such matters without attendant authority and discretionary power to effect such decision.

CONCLUSION

It is the opinion of this department that when county boards of education in adjoining counties submit to the State Board of Education a common organization problem for final decision under the provisions of subparagraph (4), Section 6, Senate Bill No. 307, Laws of Missouri 1947, Vol. II, page 370, the State Board of Education, may resolve the question for each of the disputing boards of education without adopting the specific recommendation of any one of the county boards of education.

Respectfully submitted

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APPROVED:

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