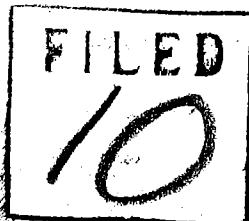


SCHOOLS: Plan of reorganization of school districts
SCHOOL DISTRICTS: may not divide existing reorganized districts.



November 15, 1956

Honorable Paul Boone
Prosecuting Attorney
Ozark County
Gainesville, Missouri

Dear Mr. Boone:

This is in response to your request for opinion of recent date, which reads as follows:

"I would appreciate your official opinion concerning a change of boundary lines of a school district reorganized under the provisions of Chapter 165, R.S. No. 1949.

"After a school district has been enlarged or organized under the provisions of Chapter 165, R.S. No. 1949, does the County Board of Education have the authority to include any portion of the reorganized district in the territory of another proposed enlarged adjoining district?

"After a common school district has been annexed to an enlarged school district under the provisions of Section 165.300, R.S. No. 1949, does the County Board of Education have the authority to include the annexed portion of such enlarged district in the territory of another proposed enlarged adjoining district?"

On January 14, 1949, this office rendered an opinion to Honorable Hubert Wheeler, copy enclosed, wherein it was held that the county board of education in proposing enlarged districts did not have the power to divide an existing district, that the plan of reorganization must include the whole district and not merely a part thereof.

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In 1955, the Legislature enacted House Bill No. 56, now Section 165.685, RS, Cum. Supp. 1955, which reads as follows:

"In recommending proposed reorganization plans, the county board of education may divide existing unreorganized districts if such division is in the best interests of the children, and place any portion in any proposed enlarged district. If a portion of the territory of any district has been incorporated in a reorganized district, the remaining part may elect to become a part of an adjoining district. For the purpose of such election the qualified voters of such part of a district shall call a special meeting and vote on the proposition as provided in section 165.300. If the remaining part of any divided district fails to become a part of a reorganized district within sixty days and does not meet the requirements of section 165.177, the part shall be annexed by the county board to an adjoining district. The annexed territory shall become a part of the receiving district upon receipt by the secretary or clerk of such district of notice of such annexation from the county board."

By specifying in this section that the plan of reorganization might divide existing unreorganized districts, we believe it clear that the Legislature intended that the plan could not divide reorganized districts.

After a common district has been annexed to an enlarged district under the provisions of Section 165.300, RSMo 1949, it is as much a part of the enlarged district as if it had been included as a part of the enlarged district in the original plan of reorganization. Consequently, the same principle would be applicable, and to include that portion of the enlarged district in the territory of another proposed enlarged district would be division of the reorganized district, which is not permissible.

CONCLUSION

It is the opinion of this office that a plan of reorganization proposed by the county board of education may not divide existing

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reorganized districts, and this is true whether the territory sought to be included in another proposed enlarged district was part of the original plan of reorganization or was added by annexation.

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

Yours very truly,

JOHN M. DALTON
Attorney General

JWl:ml
Enc.