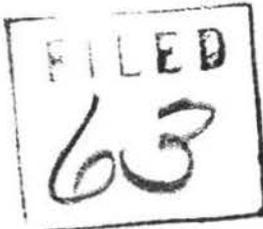


SCHOOLS:  
SCHOOL DISTRICTS:  
ANNEXATION:  
BOARD OF EDUCATION:

The annexation of A school district to B school district after an annexation election in A school district must be approved by a majority of the Board of B school district before said annexation can occur. The County Board of Education can divide existing school districts for purposes of reorganization under Section 165.685, Cum. Supp. 1955.



April 22, 1957

Honorable Richard D. Moore  
Prosecuting Attorney  
Howell County  
West Plains, Missouri

Dear Mr. Moore:

This is in answer to your opinion request to this office dated April 4, 1957, and reading as follows:

"I was requested to obtain an opinion from your office on the following problem which involves the legal status of the former Big Springs School District #107 in Douglas County.

"On November 29, 1956, the Douglas County Reorganization Board certified the release of Big Springs #107 to the Howell County Board for a plan of reorganization with this county inasmuch as this school district adjoins Howell County.

"On March 11, 1957, the Howell County Board permitted the Big Springs District #107 to post notices to annex to the Dora Consolidated District #3 in Ozark County, with the understanding that if the annexation election failed, then the Big Springs district would later be placed in a Howell County Reorganization plan.

"March 12, 1957, the Big Springs Board posted notices for an annexation election on March 26 of 1957. On March 26, 1957, the voters of Big Springs School District voted 30 for and 29 against annexation with Dora Consolidated #3. On March 29, 1957, Dora Consolidated #3 was reorganized with other school districts in an Ozark County Reorganization Plan. The plat of the Reorganized School District R-3 of which Dora Consolidated #3 is now a part did not contain the former #107 Big Springs in Douglas County within its borders.

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"On March 30, 1957, Herman Melton, County Superintendent of Ozark County Schools stated that the certification of annexation of Big Springs and Dora Consolidated #3 had not been filed with the County Clerk of Ozark County at Gainesville.

"Now the question is, is District #107 Big Springs in Douglas County a part of the new Reorganized #3 in Ozark County or is it still a common school district?"

For the purpose of this opinion Big Springs School District No. 107 of Douglas County shall be referred to as Big Springs; the Dora Consolidated School District No. 3 of Ozark County shall be referred to as Dora and the Reorganized School District R-3 of Ozark County shall be referred to as R-3.

Section 165.300 RSMo 1949, provides in part, as follows:

"1. Whenever an entire school district, or a part of a district, whether in either case it be a common school district, or a city, town or consolidated school district, which adjoins any city, town, consolidated or village school district, including districts in cities of seventy-five thousand to five hundred thousand inhabitants, desires to be attached thereto for school purposes, upon the reception of a petition setting forth such fact and signed by ten qualified voters of such district, the board of directors thereof shall order a special meeting or special election for said purpose by giving notice as required by section 165.200; provided, however, that after the holding of any such special election, no other such special election shall be called within a period of two years thereafter.

"2. Should a majority of the votes cast favor such annexation, the secretary shall certify the fact, with a copy of the record, to the board of said district and to the board of said city, town or village school district; whereupon the board of such city, town or village district shall meet to consider the advisability of receiving such territory, and should a majority of all the members of said board favor such annexation, the boundary lines of such city or town school district shall

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from that date be changed so as to include said territory, and said board shall immediately notify the clerk of said district which has been annexed, in whole or in part, of its action."

As can be seen the portion of the section set out above requires that the results of the annexation election by Big Springs must be submitted to the Board of Education of Dora and that a majority of the Board of Dora must approve the annexation of Big Springs to the Dora District. If a majority of the Board of Dora does not approve the annexation then, of course, there can be no annexation. There is nothing in your opinion request to indicate that the results of the annexation election held by Big Springs was submitted to the Board of the Dora District and approved by a majority thereof. Therefore, based on the facts as stated in your opinion request, this office would conclude that there has been no annexation of the Big Springs District to the Dora District and that Big Springs is still a common school district and is not a part of R-3. However, even if we were to assume that a majority of the Board of Dora District did approve the annexation of Big Springs to Dora it does not necessarily follow that Big Springs became a part of R-3 merely because Dora became a part of R-3.

Section 165.685, RSMo Cum. Supp. 1955, provides as follows:

"In recommending proposed reorganization plans, the county board of education may divide existing unorganized 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

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annexation from the county board."

This section provides that existing unreorganized districts can be divided by the County Board of Education for the purpose of reorganization plans; therefore, if the County Board of Ozark County decided not to include that portion of Dora which was formerly Big Springs District in R-3 then they could split the Dora District and include in R-3 only that portion thereof which they so desired to include.

#### CONCLUSION

It is the opinion of this office that if a majority of the Board of Education of Dora District did not approve the annexation to Dora of the Big Springs District then Big Springs is still a common school district and not a part of R-3.

It is also the opinion of this office that assuming the majority of the Board of Dora District did approve the annexation of Big Springs to Dora, Big Springs is not a part of R-3 as the County Board of Education of Ozark County can divide existing school districts for purposes of reorganization and in preparing the reorganization plan for R-3 that Board did not include therein that portion of Dora District which was formerly known as Big Springs District.

The foregoing opinion, which I hereby approve, was prepared by my assistant Richard W. Dehms.

Yours very truly,

RWD:mw

John M. Dalton  
Attorney General