OPINION 7

OFFICIAL OPINION NO. 7

April 9, 1974

Honorable Patrick D. Carroll
Indiana State Senator
Post Office Box 1332
Bloomington, Indiana 47401

Dear Senator Carroll:

This is in response to your request for my official opinion on the following question:

"Does the definition, 'County Superintendent of Schools,' referred to in Public Law 200 of the Acts of 1973, apply to and include the superintendent of the County School Corporation of Brown County, Indiana?"

ANALYSIS

The Indiana Code of 1971, Section 18-7-5-11, as found in Burns' Ind. Stat. Ann. (1973 Supp.), Section 53-711, as amended by Acts 1973, Public Law 200, Section 2, states:

"The county plan commission shall consist of nine [9] members. Four [4] official members shall be appointed as follows: One [1] member selected by the board of county commissioners from its membership; the county superintendent of schools; the county surveyor by virtue of his office or a qualified deputy appointed by such surveyor; the county agricultural agent by virtue of his office.

"The board of county commissioners shall appoint five [5] citizen members, not more than three [3] of whom shall be members of the same political party. In the event that there be in the county government no such office as county superintendent of schools or county surveyor, the county commissioners shall appoint an additional citizen member to the plan commission for each such nonexistent position. [Acts 1947,
Prior to its amendment in 1973, said statute provided that:

"The county plan commission shall consist of nine members. Four official members shall be appointed as follows: One member selected by the board of county commissioners from its membership; the county superintendent of schools; the county surveyor by virtue of his office; the county agricultural agent by virtue of his office.

"The board of county commissioners shall appoint five citizen members, not more than three of whom shall be members of the same political party.

"In the event that there be in the county government no such office as county superintendent of schools or county surveyor, the county commissioners shall appoint an additional citizen member to the plan commission for each such nonexistent position. [Acts 1947, ch. 174, § 11, p. 571; 1963, ch. 385, § 1, p. 1002.]


In relation to your question, then, this statute has remained in substantially similar form since 1963. The Acts of 1963, Ch. 385, Section 1 added the third paragraph to said section.

Thus, the first two paragraphs of the Indiana Code of 1971, Section 18-7-5-11, refer to a "county superintendent" as such office existed in 1947. Since Brown County has been reorganized pursuant to "The School Corporation Reorganization Act of 1959," IC 1971, Section 20-4-1-1, et seq., as found in Burns' Ind. Stat. Ann. (1970 Repl.), Section 28-3501, et seq., it is apparent that Brown County's superintendent is not a "county superintendent." Rather, he is the superintendent of a "community school corporation" as defined in IC 1971, Section 20-4-1-3(3), as found in Burns' Section 28-3502(3).

CONCLUSION

It is, therefore, my Official Opinion that the Community School Corporation Superintendent status held by the Superintendent of Schools in Brown County is not the same as the
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definition of a "County Superintendent" under the law with respect to appointment automatically to the County Plan Commission. However, the County Commissioners could, if they choose, appoint such a superintendent as a citizen-member of the nine-member County Plan Commission.