

1971 O. A. G.

OFFICIAL OPINION NO. 10

June 2, 1971

Hon. John J. Loughlin  
State Superintendent of Public Instruction  
Room 229, State House  
Indianapolis, Indiana

Dear Mr. Loughlin:

Your request for my Official Opinion concerning the School Corporation Reorganization Act of 1959 may be summarized as follows:

“Can an Indiana school corporation once fully reorganized under the School Corporation Reorganization Act of 1959 be legally divided in any manner into two separate school corporations?”

IC 1971, 20-4-1 *et. seq.*, (Acts of 1959, Ch. 202, Sec. 1, as found in Burns' [1970 Repl.], Section 28-3501, *et seq.*), is a comprehensive Act containing many sections and amendments concerning the reorganization of school corporations in the State of Indiana. The purpose of this legislation is stated in IC 1971, 20-4-1-17, (Acts of 1959, Ch. 202, Sec. 6 (3), as amended, as found in Burns' [1970 Repl.] Section 28-3517 (h), in part, as follows:

“Since it is the purpose of this act to encourage the development of school corporations which are of sufficient size to provide adequate educational opportunities for the youth of this state \* \* \*”

To achieve the above stated purpose, the State Commission for the Reorganization of School Corporations, in order to approve a plan which culminates into a reorganized school, must consider minimum qualifications such as tax wealth per student and acceptable numbers of pupils for each reorganized School Corporation.

IC 1971, 20-4-1-30, (Acts of 1959, Ch. 202, Sec. 11, as amended, as found in Burns' [1970 Repl.], Section 28-3530), provides for the dissolution of the state committee and

## OPINION 10

reorganization after such dissolution. On June 30, 1969, or when all the counties of the state have reorganized, whichever is earlier, the state commission is dissolved and its functions shall devolve upon the commission on general education of the state board of education.

IC 1971, 20-4-1-30 (2), (Burns' Section 28-3530 (2)), provides that a school district may make changes as follows:

"After a county committee has been dissolved, if local school trustees or the superintendent of public instruction deems further reorganization necessary to improve educational opportunities for the pupils in the county, such local school trustee or the state superintendent of public instruction shall submit proposed changes to the state commission, if in existence at the time, or if the state commission has been dissolved, to the *commission on general education of the state board of education*. If the changes proposed by such local school trustee or the state superintendent of public instruction are approved by the state commission, or by the general commission of the state board of education if the state commission has been dissolved, the proposal shall become effective under the procedure specified in section 7 of this act so far as the same are applicable." (My emphasis)

Under this Act, the state commission is given broad general powers, [IC 1971, 20-4-1-17, (Burns' (1970 Repl.) Section 28-3517)] to formulate and adopt a set of minimum standards in furtherance of the expressed purpose of the legislation. It is also given the power to make a written determination of the plan submitted and to give approval or disapproval. As was stated in IC 1971, 20-4-1-30 (2), (Burns' [1970 Repl.] Section 28-3530 (2)), the state commission has the authority to approve changes and amendments to a proposed plan.

Since the duties of the state commission devolve upon the commission on general education of the state board of education, this commission has the authority to approve changes and amendments. School corporations, therefore, are given a tool by which they may adjust their boundaries by annexa-

1971 O. A. G.

tion or disannexation. However, as was construed in 1968 O.A.G. 151, at page 160:

“\* \* \* It may not be used by a losing school corporation to give so much of its territory to other school corporations as to leave itself a school corporation below the standards set by the Commission and to destroy the work of that Commission and the various county committees reorganizing Indiana schools under Acts of 1959, Ch. 202, as amended.”

That Opinion is equally applicable to the adjustment of school corporation boundaries.

CONCLUSION

It is my official opinion, therefore, that since the Indiana General Assembly has provided specific guidelines for changing school districts, any further reorganization must have the approval of the Commission on General Education of the State Board of Education, as prescribed by statute.