



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

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OPINION NO. 85-19

January 22, 1985

Ray S. Smith, Jr.
Chairman
School District Reorganization
Study Commission
State Capitol
Little Rock, AR 72201

Dear Mr. Smith:

This is in response to your opinion request wherein you posed the following situation and questions:

A school district situated wholly within county A is dissolved in 1987, pursuant to section 2 of Act 445 of 1983, "The Quality Education Act of 1983." The County Board of Education in County A must then annex the territory of the dissolved school district to another district or districts in a geographically contiguous manner. The receiving district or districts shall be designated by the County Board of Education, and said receiving district or districts are hereby mandated to accept such district, or parts of districts.

1. Can the County Board of Education in County A annex the territory of the dissolved school district in County A to a geographically contiguous school district situated wholly in County B?

2. Does the County Board of Education in County B have any legal authority to accept or reject the annexation proposed in Question 1?

3. Does the local School Board for the proposed "receiving" district or districts, situated wholly in County B, have any legal authority to accept or reject the annexation proposed in Question 1?

Dispositive of your inquiries is Saline County Board of Education vs. Hot Springs Board of Education, 270 Ark. 136, 603 S.W.2d 413 (1980). Although this case was based on the Quality Education Act of 1969, the rationale upon which the

Arkansas Supreme Court made its decision is identical to the facts pertinent to your inquiry and worthy of repeating herein, to-wit:

The controlling issue on appeal involves an interpretation of the Quality Education Act, §80-4601, et seq. Section 80-4602 provides that any public elementary or secondary school with a rating of less than "A" is to be eliminated by June 1, 1979. Any district operating such a school shall be dissolved and annexed to another district or districts in which all schools have at least an "A" rating. That statute then provides in pertinent part:

... The County Board of Education shall abolish said districts and shall annex the territory of such districts to the receiving district or districts in a geographically contiguous manner. The receiving district or districts shall be designated by the County Board of Education and said receiving district or districts are hereby mandated to accept such district or parts of districts.

* * *

We agree with appellant that these statutes authorize the assignment made by the Saline County Board to the contiguous Magnet Cove District in Hot Spring County. The Quality Education Act indicates the legislature intended that county lines are not controlling. To interpret the Act otherwise could result in confusion and diminish the purpose of the Act; namely, to improve the quality of educational opportunities. We do not perceive this is an impingement of the constitutional integrity of counties. We have long recognized, in matters of education, that our constitution (Article 14, §1, as amended) vests in the legislature the duty and authority to make provisions for the establishment, maintenance and support of a common school system in our state. See Lemaire v. Henderson, 174 Ark. 936, 298 S.W. 327 (1927). The pertinent statute gives the administering county board, as here, the absolute authority to designate the receiving district, and such district is mandated by the legislature to accept the district or parts of districts to be annexed. The legislature has provided that the only limitation on this authority is the annexation must be done "in a geographically contiguous manner." There is no contention here that the annexation does not meet this criterion.

Section 2 of Act 445 of 1983 provides as follows:

(a) All public elementary and secondary schools that fail to meet minimum standards for accrediting Arkansas elementary and secondary public schools in this State, as promulgated by the State Board of Education under the provisions of this Act, shall be eliminated not later than June 1, 1987, and districts operating one or more of such schools shall be dissolved and annexed to another district or districts which operate all schools therein in compliance with such minimum standards for accrediting elementary and secondary public schools. The County Board of Education shall abolish said districts and shall annex the territory of such districts to the receiving district or districts in a geographically contiguous manner. The receiving district or districts shall be designated by the County Board of Education, and said receiving district or districts are hereby mandated to accept such district, or parts of districts.

It is therefore the opinion of this office that Saline County Board of Education vs. Hot Spring County Board of Ed., supra, dictates the responses to the questions you have posed. Hence, the County Board of Education in County A may annex the territory of a dissolved school district in County A to a geographically continuous school district situated wholly in County B. The County Board of Education in County B would have no legal authority to reject the annexation proposed by County A. The local school board for the proposed receiving district situated wholly in County B would have no legal authority to reject the annexation proposed by County A.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General C. R. McNair, III.

Sincerely,


STEVE CLARK
Attorney General

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