



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

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 85-80

March 13, 1985

Senator Nick Wilson
P.O. Box 525
Pocahontas, AR 72455

Dear Senator Wilson:

This is in response to your opinion request wherein you posed the following facts and attendant question:

The Board of Directors have by a majority vote determined to request annexation to an adjoining school district, and pursuant to that vote have adopted and filed with the County Board of Education a resolution requesting annexation to such adjoining district. Additionally, the board of directors of the school district to which annexation is sought have adopted and filed with the County Board of Education a resolution indicating their willingness to accept the annexation request. This action was taken pursuant to Section 1 (c) of Act 61 of 1983, 1st Extraordinary Session.

Assuming these facts, please provide me with your opinion regarding the following question:

Does the County Board of Education have any discretion to deny the request for annexation?

Act 61 of 1983 (1st Extraordinary Session) provides in pertinent part as follows:

"Section 9. (a) Any school district in this State having a school, or schools, failing to meet the minimum standards for accreditation, desiring to be annexed to an adjoining district having no schools which fail to meet the minimum standards for accreditation at a time prior to June 1, 1987, may, upon resolution of the board of said district, petition the county board of education to be annexed to an adjoining district, and the county board shall have the authority to proceed to effect the annexation in the same manner as provided elsewhere in this Act."

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(c) Between June 1, 1984, and June 1, 1987, any school district may be annexed to one or more adjoining school districts by petitioning the county board of education of the county in which such district is administered to order the annexation. The annexation request may be by resolution of the board of directors of the district or by a petition signed by a majority of the qualified electors in the district. Upon receipt of a request for annexation, the county board of education shall hold a hearing on the request and shall then order the annexation of the district to one or more adjoining school districts. If the county board of education fails to act within sixty (60) days of receipt of a request for annexation, the petitioning district may request the circuit court to issue a writ of mandamus to said county board." (Emphasis supplied).

In response to your inquiry then, because of the mandatory language contained in Section C of Act 61, it is the opinion of this office that the County Board of Education does not have any discretion to deny the request for annexation.

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

Sincerely,


STEVE CLARK
Attorney General

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