
OFFICE OF THE ATTORNEY GENERAL
Official Opinion No. 2018-11

November 13, 2018

OFFICIAL OPINION 2018-11

Timothy Schultz, General Counsel
Indiana State Board of Education
143 West Market Street, Suite 500
Indianapolis, IN 46204

RE: 2018 Reorganization of West Clark Community Schools

Dear Mr. Schultz:

ISSUE

Pursuant to Ind. Code § 4-6-2-5, the Indiana State Board of Education (the "State Board") requested the opinion of the Office of the Attorney General ("OAG") on two related questions involving actions by the West Clark County Community School Board:

- (1) May a school corporation that was previously created by a county committee reorganize without creating a new committee?
- (2) If the school corporation may proceed under Ind. Code § 20-23-4-38 and reorganize without the creation of a committee, what materials must be submitted to the State Board in order to properly reorganize?

SHORT ANSWER

- (1) A school corporation previously reorganized by a now-dissolved county committee may submit reorganization changes to the State Board without forming a new county committee.
- (2) The local governing body or the State Superintendent of Public Instruction (the "State Superintendent") must submit to the State Board the materials described in Ind. Code § 20-23-4 *et seq.* in order for the proposed change to become effective.

BACKGROUND

The Indiana School Reorganization Act of 1959¹ (the "1959 Act"), which ultimately was responsible for reducing the number of Indiana's local school districts from 966 to under 400, provided the authorization and procedure for reducing the number of local school districts through consolidation, the purpose being to provide "more equalized educational opportunities for publicly enrolled students in grades 1-12 in the school corporations of Indiana."²

In summary, the 1959 Act required each county to form a County Committee for the Reorganization of School Corporations (the "County Committee") which was responsible for preparing a preliminary plan of reorganization supported by studies and surveys. After public hearings and receiving comments, the County Committee was required to submit a final plan for reorganization to the State Commission for the Reorganization of School Corporations (the "State Commission") for approval.

Upon approval of a reorganization plan by the State Commission, a community school corporation provided for in the plan could be established by filing an appropriate petition with the clerk or clerks of the circuit court or courts of the county or counties where the voters reside signed by at least 55% of the registered voters in the boundaries of the new school corporation. After receiving certification from the aforementioned clerk or clerks on the regularity of the signatures on the petition, the County Committee was required to publish notice in a newspaper of general circulation in the community school corporation that the steps necessary to establish the community school corporation had been completed and provide notice of the creation of the new school corporation and its particulars.

If the County Committee did not receive a petition with 55% of the registered voters in the boundaries of the

new school corporation within 90 days of receiving the approved plan from the State Commission, a special election was noticed and held for the purpose of allowing the affected voters to vote on the approved reorganization plan. If the plan should be rejected, the County Committee could re-submit it at the next general election or could devise a new plan.

The West Clark County Community Schools were created as part of the Clark County Comprehensive Plan submitted to and approved by the State Commission on August 1, 1967,³ and by the voters in the fall election. The West Clark Community School Corporation covered five townships: Silver Creek, Wood, Carr, Union and Monroe. The Clark County Comprehensive Plan reorganized the entire county. As required by the 1959 Act, the County Committee was dissolved, and the duties of the State Commission devolved on the State Board of Education.⁴

In 2017, after the voters defeated a funding request deemed essential by the residents of Silver Creek Township, the West Clark Community School Board voted unanimously to split the district into two: "the move would make the three Silver Creek schools and their 2,900 students into their own district while the five Henryville and Borden schools and their 1,700 students would remain in the West Clark district."⁵

ANALYSIS

I. MAY A SCHOOL CORPORATION THAT WAS PREVIOUSLY CREATED BY A COUNTY COMMITTEE REORGANIZE WITHOUT CREATING A NEW COMMITTEE?

Even 60 years ago, the General Assembly recognized the transitory nature of a County Committee, finding that once the County Committee had fulfilled its statutory functions, it should be dissolved and further reorganization should be accomplished by the local school trustees or by the State Superintendent. The 1959 Act provided that

(1) When an entire county has been reorganized in the manner and procedure provided in this act, or at the end of four (4) years from the effective date of this act, whichever is earlier, the County Committee shall be dissolved.

...

(2) After a County Committee has been dissolved, if local school trustees or the State Superintendent of Public Instruction deems further reorganization necessary to improve educational opportunities for the pupils in the County, such local school trustees 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.⁶ If the changes proposed by such local school trustees 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 be submitted to the electors of the corporations affected in the same manner as provided in section 7 hereof, as far as applicable, and the change effected in the same manner.⁷

While the 1959 Act has been codified, re-codified, and periodically amended, its essential provisions are still found in Ind. Code § 20-23-4, including the authority of the local governing body or the State Superintendent to undertake further reorganization:

IC 20-23-4-38 Dissolution of county committees upon completion of reorganization

Sec. 38. (a) Whenever an entire county has been reorganized under this chapter or [IC 20-23-16-1](#) through [IC 20-23-16-5](#), by the creation of a community school corporation or corporations for the entire county, the county committee shall be dissolved. . . .

(b) After a county committee has been dissolved, if the local governing body or the state superintendent considers further reorganization necessary to improve educational opportunities for the students in the county, the local school trustees or the state superintendent shall submit proposed changes to the state board. If the changes proposed by the local governing body or the state superintendent are approved by the state board, the proposal becomes effective under the procedure specified in sections 20 through 24 of this chapter [Ind. Code § 20-23-4] so far as the same are applicable.

The entirety of Clark County was reorganized in the 1960s. The County Committee, having fulfilled its statutory obligations, was dissolved. Each of the local governing bodies (typically, the school board) and the State Superintendent are empowered to take further reorganization without the need to establish a County Committee.

II. IF THE SCHOOL CORPORATION MAY PROCEED UNDER IND. CODE § 20-23-4-38 AND REORGANIZE WITHOUT THE CREATION OF A COMMITTEE, WHAT MATERIALS MUST BE SUBMITTED TO THE STATE BOARD IN ORDER TO PROPERLY REORGANIZE.

Ind. Code § 20-23-4-16 sets forth the minimum requirements the final plan must meet to be deemed "sufficient" by the State Board (emphasis added):

The form of a preliminary or final comprehensive plan of reorganization is sufficient if the plan contains in its own terms or by reference the following for each proposed community school corporation:

- (1) The name of the proposed community school corporation.
- (2) A general description of the boundaries of the **community school corporation as provided in section 12 of this chapter** [Ind. Code § 20-23-4-12].
- (3) The number of members of the board of school trustees and whether the members are elected or appointed.
- (4) The manner in which the board of school trustees, other than the interim board, is elected or appointed.
- (5) If a school corporation is divided as part of the reorganization, the disposition of assets and liabilities of the school corporation.
- (6) **The statement required by section 12** of this chapter [Ind. Code § 20-23-4-12] if that statement is submitted or adopted with the plan.⁸

Ind. Code § 20-23-4-12 (referred to in Ind. Code § 20-23-4-16 as "section 12 of this chapter") has an extensive list of supporting documents that must accompany a preliminary plan. Those required by Ind. Code § 20-23-4-16 to accompany the final plan are:

IC 20-23-4-12 Preliminary plans; contents; supporting documents

(a) In formulating a preliminary reorganization plan and with respect to each of the community school corporations that are a part of the reorganization plan, the county committee shall determine the following:

(2) Subject to subsection (e), a general description of the boundaries of the community school corporation.

(c) The preliminary plan must be supported by a summary statement of the following:

(1) The educational improvements the plan's adoption will make possible.

(2) Data showing the:

- (A) assessed valuation;
- (B) number of resident students in ADA in grades 1 through 12;
- (C) assessed valuation per student referred to in clause (B); and
- (D) property tax levies;

of each existing school corporation to which the plan applies.

(3) The:

- (A) assessed valuation;
- (B) resident ADA; and
- (C) assessed valuation per student;

data referred to in subdivision 2(A) through 2(C) that would have applied for each proposed community school corporation if the corporation existed in the year the preliminary plan is prepared or notice of a hearing or hearings on the preliminary plan is given by the county committee.

(4) Any other data or information the county committee considers appropriate or that may be required by the state board in its rules.

(e) The general description referred to in subsection (a)(2) may consist of an identification of an existing school corporation that is to be included in its entirety in the community school corporation. If a boundary does not follow the boundary of an existing civil unit of government or school corporation, the description must set out the boundary:

(1) as near as reasonably possible by:

- (A) streets;
- (B) rivers; and
- (C) other similar boundaries;

that are known by common names; or

(2) if descriptions as described in subdivision (1) are not possible, by section lines or other legal description.

The description is not defective if there is a good faith effort by the county committee to comply with this subsection or if the boundary may be ascertained with reasonable certainty by a person skilled in the area of real estate description. The county committee may require the services of the county surveyor in preparing a description of a boundary line.

While the State Board is required to "receive and examine each plan for the reorganization of a school corporation submitted to the state board by a county committee [or the local school board when the county committee has been dissolved] and approve each plan that meets the standards of the state board,"⁹ the statutes speak only to the subject matter the plan must address. The statutes do not dictate the form of any particular materials. However, the State Board is authorized to request "[a]ny other data or information . . . that may be required by the state board in its rules."¹⁰

CONCLUSION

A County Committee does not need to be re-established in order for the West Clark Community Schools to reorganize. The contents of the plan that are to be submitted to the State Board, and documents or information in support of it, are described in Ind. Code § 20-23-4-16 and, where appropriate, in Ind. Code § 20-23-4-12.

SUBMITTED and
ENDORSED FOR PUBLICATION:

Curtis T. Hill, Jr.
Attorney General

Scott C. Newman, Chief Counsel
Kevin C. McDowell, Assistant Chief Counsel
Susan W. Gard, Deputy Attorney General

¹ Acts of 1959, Chpt. 202, pp. 451-474.

² *Historical Note*, p. 4, School Reorganization Commission Collection, Indiana State Library Rare Books and Manuscripts Collection, available at https://www.in.gov/library/files/L591_School_Reorganization_Commission_Collection.pdf (last visited November 2, 2018).

³ Copies of documents relating to the Clark County School Reorganization were obtained from the State Archives, Indiana Archives and Records Administration, 6440 E. 30th Street, Indianapolis, IN and provided to this Office by the State Board of Education. The Comprehensive Plan covered all of Clark County.

⁴ Acts of 1959, Chpt. 202, Sec. 11.

⁵ Justin Sayers, *After divisive vote, West Clark schools want to do what hasn't been done before: Split up*, Louisville Courier-Journal, November 22, 2017, available at <https://www.courier-journal.com/story/news/local/indiana/2017/11/22/silver-creek-schools-leave-west-clark-district-indiana/865793001/> (last visited November 2, 2018).

⁶ The Commission on General Education was itself dissolved by P.L. 20-1984, and its responsibilities assigned to the current iteration of the Indiana State Board of Education, as established pursuant to Ind. Code § 20-19-2 *et seq.*

⁷ Acts of 1959, Chpt. 202, Sec. 11.

⁸ These general requirements are also found in the 1959 Act. See Acts of 1959, Chpt. 202, Sec. 5.

⁹ Ind. Code § 20-23-4-18(a)(2).

¹⁰ Ind. Code § 20-23-4-12(c)(4).

Posted: 11/21/2018 by Legislative Services Agency
An [html](#) version of this document.