

March 22, 2011

OFFICIAL OPINION 2011-3

Dr. Tony Bennett
Superintendent of Public Instruction
Indiana Department of Education
200 W. Washington St.
Indianapolis, IN 46204

RE: County School Reorganization Plan

Dear Dr. Bennett:

This letter is in response to your request for an Attorney General opinion regarding your authority to propose changes to a county's school reorganization plan pursuant to Ind. Code § 20-23-4-38(b). Specifically, you ask whether you may submit to the State Board of Education a proposal from a group of private citizens that seeks to divide an existing school corporation into two separate school corporations even though the existing school corporation's governing body is opposed to the plan.

BRIEF ANSWER

You may submit to the State Board of Education proposed changes to a school corporation's reorganization plan on two conditions. First, the county committee for reorganization of school corporations must have been dissolved following the reorganization of an *entire county*. Second, you consider "further reorganization necessary to improve educational opportunities for the students in the county." Ind. Code § 20-23-4-38(b). In determining whether further reorganization is necessary, the superintendent must consider state policy located at Ind. Code § 20-23-6-16.

ANALYSIS

The Indiana Code sets up the method in which school corporations may reorganize into community school corporations. *See generally* Ind. Code Chpt. 20-23-4. Given the information provided in your letter it appears the reorganization mentioned would fall under this chapter. The method to reorganize a county into one or more community school corporations begins with the creation of a nine member county committee for the reorganization of schools. *See* Ind. Code § 20-23-4-11. That committee then creates a preliminary reorganization plan, holds a public hearing on the plan, and submits the final plan to the State Board of Education. *See* Ind. Code §§ 20-23-4-12, -13, -14, -15. Once the State Board of Education approves the plan, the plan must be approved by the voters by either petition or election. *See* Ind. Code §§ 20-23-4-20, 21. Once the entire county has been reorganized into a community school district 01' districts, the committee is dissolved. *See* Ind. Code § 20-23-4-38(a).

Changes can still be made to the reorganization plan even if the committee has been dissolved. Ind. Code § 20-23-4-38(b) gives both the school corporation's governing body and the state

superintendent of public instruction the ability to propose changes to the reorganization plan to the State Board of Education if either "considers further reorganization necessary to improve educational opportunities for the students in the county." Ind. Code § 20-23-4-38(b). This authority is only available once the county committee is dissolved. Again, as mentioned above, the committee is only to be dissolved once the *entire* county has been reorganized. *See* Ind. Code § 20-23-4-38(a).

In determining whether either reorganization is necessary, the State Superintendent must consider the state policy located at Ind. Code § 20-23-6-16. This section states in relevant part that "the school corporation shall give consideration to the educational opportunities for students, local community interest, the effect on the community as a whole, and the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt." Ind. Code § 20-23-6-16. The state superintendent would replace "school corporation" since he is the one considering reorganization.

Your letter also mentioned a concern that the plan for distribution of assets and liabilities has been determined by only one of the parties. This will not affect your ability to submit the plan to the State Board of Education. However, the State Board of Education's approval of a plan that includes assets and liabilities would be subject to judicial review under Ind. Code § 20-23-4-25.

CONCLUSION

The state superintendent for public instruction may submit proposed changes to a school corporation's plan for reorganization to the State Board of Education on two conditions: (1) the county board of reorganization of school corporations has been dissolved following the reorganization of the *entire county* and (2) the superintendent considers the changes necessary to improve educational opportunities for the students of the county after considering the stated policy located at Ind. Code § 20-23-6-16.

Sincerely,

Gregory F. Zoeller
Attorney General

Richard M. Bramer
Chief Counsel