



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

August 18, 1975

ATTORNEY GENERAL OPINION NO. 75-338

Merle R. Bolton  
Commissioner of Education  
Kansas State Department of Education  
Kansas State Education Building  
120 East 10th Street  
Topeka, Kansas 66612

Re: Schools--Disorganization of School Districts

Synopsis: Any unified school district which is unable to provide a minimum of thirty (30) units of accredited instruction at the school district's high school must continue to function as a unified school district until the July 1 following the filing of petition by the local board of education requesting disorganization of the district. By statute, K.S.A. 72-7301, the effective date of an order granting the petition's request for disorganization must be made effective the first July occurring thereafter. The authority to grant such a disorganization is vested in the State Board of Education by virtue of K.S.A. 72-7301.

\* \* \*

Dear Commissioner Bolton:

You have requested an opinion from this office concerning the following questions:

1. If, because of too few students, USD #478 is unable to offer and teach at least thirty units of instruction in grades 9-12 as required by K.S.A. 72-8212, can it continue to function as a unified district until July 1, 1976, or must it be disorganized at an earlier date?

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2. If the district must be disorganized at this time, does the authority for such action rest with the State Board of Education, the Office of the Attorney General, or other persons or officers?

3. If the district must be disorganized prior to July 1, 1976, what is the status of (a) the budget adopted by the district for 1975-76; (b) the taxes in the process of collection for USD #478?

In specific answer to these three inquiries, K.S.A. 72-7301 provides:

Any unified school district may be disorganized under the following circumstances in the manner provided in this act.

Upon petition of the board of education of any unified school district for the disorganization of such school district and attachment of the territory thereof to one or more other unified school districts, the state board of education shall consider the same and if it finds that there is only one high school in the district and that it cannot meet the thirty (30) unit minimum accreditation requirements, or if it finds that such unified school district fails to meet minimum requirements for establishment of a unified district, and if in addition it finds that the educational system of the state and of the area in which such school district is located will be improved by such disorganization, he shall issue his order disorganizing the same effective on the July 1 following the date of such petition.

The singular meaning applicable to this statute is that the board of education of any unified school district may, upon its own petition, seek an order from the State Board of Education disorganizing that unified school district effective the July 1, subsequent to the filing of the petition. It should be noted that this procedure is a complete alternative to that provided in K.S.A. 72-7302 whereby the electors of any such school district may also utilize petition procedure for disorganization. Since the emphasized portion of the above statute states one of the grounds for which the local board of education may offer such a petition includes the inability to provide a minimum of thirty (30) accredited units of instruction at the district's

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high school, it would appear that the board of education of Unified School District #478 may presently petition the State Board of Education for an order disorganizing the school date with the effective date of such an order being July 1, 1976.

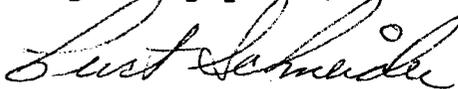
As for those who are without a high school providing the minimum thirty (30) units of accredited instruction, K.S.A. 72-6757 provides in pertinent part:

Boards may contract with each other for the payment of tuition for students attending school in a unified district not of their residence. Such contracts may be made for students who reside at inconvenient or unreasonable distances from the schools maintained by their unified district or who should, for any reason deemed sufficient by the board of their unified district, attend school in another unified district.

The obvious impact of this statute is that it permits the board of education of a school district to contract with another board to send their students in schools in the latter's district "...for any other reasons deemed sufficient..." by the sending board.

Accordingly, any unified school district which is unable to provide a minimum of thirty (30) units of accredited instruction at the school district's high school may continue to function as a unified school district until the July 1 following the filing of petition by the local board of education requesting disorganization of the district. By statute, K.S.A. 72-7301, the effective date of an order granting the petition's request for disorganization must be made effective the first July 1 occurring thereafter. The authority to grant such a disorganization is vested in the State Board of Education by virtue of K.S.A. 72-7301.

Very truly yours,



CURT T. SCHNEIDER  
Attorney General

CTS:HTW:bv