

Date Issued: July 19, 1983 (AGO 83-27)

Requested by: Alton N. Koppang, Director Finance & Reorganization, State Board of Public School Education

- QUESTION PRESENTED -

Whether the State Board of Public School Education must comply with notice requirements as provided in section 28-32-05(7) of the North Dakota Century Code at its hearings regarding annexations, reorganizations, and dissolutions of school districts.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the State Board of Public School Education must comply with notice requirements as provided in section 28-32-05(7), N.D.C.C., at its hearings regarding annexations, reorganizations, and dissolutions of school districts.

- ANALYSIS -

The State Board of Public School Education is an administrative agency when it is acting as the state board which hears proposals for annexations, reorganizations, and dissolutions of school districts in accordance with chapter 15-53.1, N.D.C.C. See section 28-32-01, N.D.C.C. Proposals to annex, reorganize, or dissolve a school district do not involve a complaint and specific name respondents, rather these issues are brought before the state board upon presentation of the proposed annexation, reorganization, or dissolutions of a school district by a county committee.

Section 28-32-05(7), N.D.C.C., provides:

28-32-05. RULES OF PROCEDURE - COMPLAINT - NOTICE OF HEARING - FILING AND SERVICE. The following rules of procedure shall be observed by all administrative agencies in proceedings in which the same are applicable:

\* \* \*

7. If the nature of the action does not involve a complaint and specific-named respondents, the above rules shall not apply and public notice of the hearing shall be given at least fourteen days prior to the hearing by publication in the official newspaper in the county or counties in which the subject matter involved is located.

Sections 15-53.1-06(5), 15-53.1-18, and 15-53.1-41, and 15-53.1-42, N.D.C.C., regarding annexations, reorganizations, and dissolutions require the county committee to act on the proposals and then submit the proposal to the state board for approval.

Because the State Board of Public School Education is an administrative agency, any action taken by the state board to approve or disapprove such proposals for annexation, reorganization, or dissolutions of school districts must occur at a hearing held in accordance with chapter 28-32, N.D.C.C. Therefore, it is my opinion that the State Board must give public notice of these hearings "at least fourteen days prior to the hearing by publication in the official newspaper in the county or counties in which the subject matter involved is located" in accordance with section 28-32-05(7), N.D.C.C.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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Attorney General

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