

**OPINION  
60-93**

April 5, 1960(OPINION)

EDUCATION

RE: Reorganized School Districts - Discontinuance of Schools

We have received your letter dated April 4, 1960, with reference to closing schools in reorganized districts.

The facts in your case are as follows: Unity School District No. 80 in Petersburg, North Dakota, was recently reorganized. The plan provided for keeping open the elementary schools at Petersburg, Dahlen and Niagara. Now in order to reduce operating costs the district wishes to discontinue the seventh and eighth grades at Dahlen and Petersburg and send the pupils to the Niagara School.

Your question then is whether this can be done under present law in this state. Section 15-5319 of the 1957 Supplement to the North Dakota Revised Code of 1943 reads as follows:

"CONTINUANCE OF ELEMENTARY SCHOOLS IN REORGANIZED DISTRICTS. Each common school in the local districts included in reorganized school districts shall be kept in session as provided by law, except that any school may be discontinued when the people in the old district where the school is located, by a majority vote, approve its closing, or when a petition requesting that the school is discontinued is signed by two-thirds of the electors in the old district where the school is located and is presented to the school board or board of education in the reorganized district. The board shall reopen any school which has been closed for the next ensuing term upon the written demand of the parents or guardians of six or more children of compulsory school age residing within two and one-half miles of the school. The parents or guardians of at least four such children must be residents of the district. The board may reopen such school at any time upon its own motion."

We believe the intent of this law was to insure continuation of elementary schools in local districts after reorganization, unless the people residing in the old district either by election or petition ask that school be discontinued in the area of the old district.

For this reason it is our opinion that the new district cannot discontinue the seventh and eighth grades in Petersburg and Dahlen unless required to do so by the people residing in the area of the old Petersburg and Dahlen districts either by an election or by petition as provided by law.

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Attorney General