

N.D.A.G. Letter to Furuseth (Nov. 16, 1989)

November 16, 1989

Mr. Peter H. Furuseth
Williams County State's Attorney
P.O. Box 2047
Williston, ND 58802-2047

Dear Mr. Furuseth:

Thank you for your April 24, 1989, letter concerning comprehensive county reorganization plans. I apologize for the delay in responding to your letter.

In your letter you indicate that in 1984, Williams County developed a comprehensive plan for the reorganization of its school districts and submitted the plan to the State Board of Public School Education (state board) for approval. Your letter further indicates that the state board never acted upon the plan. You ask how a comprehensive county reorganization plan mandated by N.D.C.C. ch. 15-27.3 is implemented if it is not approved by the state board of education. If the state board has approved the 1984 Williams County comprehensive reorganization plan, you also ask whether the county board of reorganization can consider a new comprehensive plan when the old plan has been in effect for only five years.

N.D.C.C. § 15-27.3-01(2) requires the county committee for the reorganization of school districts (county committee) to prepare and submit to the state board a comprehensive plan for the reorganization of school districts within the county. After a comprehensive plan is submitted to the state board, the state board must:

2. Receive, file, and examine plans and data for the reorganization of school districts submitted by county committees, and shall approve such plans and data when they are found by the state board to provide for a satisfactory school district system for the counties and the state and for an equitable adjustment of property, debts, and liabilities.

....

4. Transmit to the county superintendent of each county affected a copy of the plan for reorganization of school districts approved by the state board

N.D.C.C. § 15-27.1-06 (emphasis added).

The foregoing sections indicate that the state board must approve the comprehensive

reorganization plan and must provide the county superintendent a copy of the approved plan before the plan can be implemented at the county level.

There are three methods of changing school district boundaries: annexation, reorganization, and dissolution. The county committee and the state board use the comprehensive reorganization plan to implement the reorganization statutes. N.D.C.C. § 15-27.3-16 provides that the county committee and the state board may approve proposals for the reorganization of school districts if "the proposals constitute an acceptable part of the comprehensive reorganization plan submitted pursuant to section 15-27.3-01 for the reorganization of the school districts of the county." Thus, after the state board has approved the comprehensive reorganization plan, the county committee and the state board use the plan to determine whether to approve proposals for the reorganization of school districts.

If the state board has not approved a county comprehensive reorganization plan, the reorganization statutes do not preclude the county committee from approving reorganization proposals. If the state board has not approved a county comprehensive reorganization plan, then N.D.C.C. § 15-27.3-03 would apply. N.D.C.C. § 15-27.3-03 states:

The county committees, from time to time, may submit to the state board a proposal for the reorganization of one or more districts without awaiting the completion of a comprehensive plan; provided, however, that the proposal fits into and becomes an integral part of a comprehensive plan which the county committee is required to Prepare.

Thus, if the state board has not yet approved a Williams County comprehensive reorganization plan, then the Williams County committee may submit proposals for reorganization to the state board provided that those proposals fit into and become an integral part of the final approved comprehensive plan. "The final approval of a [proposal] for a separate district necessarily contemplates that suitable changes might have to be made in the comprehensive plan finally adopted to make the separate [proposal] an integral part of it." Anderson v. Peterson 54 N.W.2d 542, 555 (N.D. 1952) (affirming state board's approval of a proposal for the reorganization of school districts when a comprehensive reorganization plan had not been completed).

The county committees and the state board may act on annexation and dissolution matters without considering the county comprehensive reorganization plan. See N.D.C.C. chs. 15-27.2 and 15-27.4. Therefore, the comprehensive reorganization plan is not necessary to the implementation of the annexation and dissolution statutes.

Thus, in answer to your first question, a comprehensive county reorganization plan cannot be implemented at the county level until the county superintendent receives a copy of the approved plan from the state board. A county committee may, however, submit a proposal for reorganization to the state board before the comprehensive county reorganization plan has been approved by the state board. A county committee may act

on annexation or dissolution matters without considering the comprehensive county plan for the reorganization of school districts.

You also ask whether, if the 1984 plan has been approved by the state board, the county committee may consider a new comprehensive plan when the old plan has been in effect for only five years.

The statutes governing the annexation, reorganization, and dissolution of school districts place no limits on how frequently a county committee may adopt a new comprehensive plan for the reorganization of school districts within the county. The statutes leave the matter of whether a new plan should be considered to the discretion of the county committee and the state board. Therefore, it is my opinion that if the Williams County Committee for the Reorganization of School Districts determines a new comprehensive plan is necessary, then it may consider a new comprehensive plan even though the old plan has been in effect for only five years.

I hope you will find this opinion responsive to your questions.

Sincerely,

Nicholas J. Spaeth

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