



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

Honorable R. H. Dent
County Attorney
Sabine County
Hemphill, Texas

Dear Sir:

Opinion No. 0-4180
Re: Consolidation of common school
District.

We have received your letter of recent date which we quote in part as follows:

"There is a Consolidated Common School District joined by another Common School District, the latter being joined by a third district of the same kind. These two Common School Districts expect to have an election to consolidate with the first.

"The question is, would it be proper to hold both elections in these two districts the same day or should they be held one at the time; first by the contiguous district and second by the one next to it."

Although we do not have all the facts before us, we assume that they are such that the general consolidation statute, Article 2806, Revised Civil Statutes, is applicable. Article 2806 provides in part as follows:

"On the petition of twenty (20) or a majority of the legally qualified voters of each of several contiguous common school districts, or contiguous independent school districts, praying for the consolidation of such districts for school purposes, the County Judge shall issue an order for an election to be held on the same day in each such district. The County Judge shall give notice of the date of such elections by publication of the order in some newspaper published in the county for twenty (20) days prior to the date on which such elections are ordered, or by posting a notice of such elections in each of the districts, or by both such publications and posted notices.

The Commissioners' Court shall at its next meeting canvass the returns of such elections, and if the votes cast in each and all districts show a majority in each district voting separately in favor of such consolidation, the Court shall declare the school districts consolidated."

There are three districts involved here. The first district adjoins the second, and the second district adjoins the third, but the first district is separated from the third by the second district. We are, therefore, confronted with the question whether these three districts are contiguous within the meaning of the statute. If they are not, then it would be necessary first to hold an election to determine whether the first and second districts would consolidate, and then if the election carried, to hold a similar election to determine whether the third district would consolidate with the district formed by the first and second districts.

"Contiguous" as used in Article 2922a, relating to the grouping of school districts to form rural high school districts, has been held to mean that the districts must so touch one another that all may be included in a common boundary line, without intervening spaces. See *Beard v. Marshall*, 32 S.W. (2d) 496, *Elliot Common School District No. 48 v. County Board of School Trustees*, 76 S.W. (2d) 786 (Writ dismissed); *Miller v. School Trustees of Milam County*, 52 S.W. (2d) 806 (Writ Ref.). We are of the opinion that such is the meaning to be given to the word "contiguous" as it is used in Article 2806. Any other construction would necessarily require the holding of several elections involving additional expense, delay, and inconvenience. We do not believe that such a construction was intended by the Legislature.

It is, therefore, the opinion of this department that school districts are contiguous under Article 2806, Revised Civil Statutes, if they touch one another so that all may be included in a common boundary line. Therefore, upon the presentation of the petition described in the statute, the county judge "shall issue an order for an election to be held on the same day in each such district." The election of course will be held in each of the three districts.

Honorable R. H. Dent, page 3

0-4180

Very truly yours

ATTORNEY GENERAL OF TEXAS

By s/George W. Sparks
George W. Sparks
Assistant

GWS:LM:wc

APPROVED DEC 4, 1941
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/BWB Chairman