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May 13, 1993

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Opinion Committee
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711

FILE # ~~MB 20302~~ **RO-545**

I.D.# 20302

RO-545

Kenneth H. Ashworth
COMMISSIONER
512-483-6101

Dear Ms. Johnson:

The purpose of this letter is to request an opinion from the Attorney General on the interpretation of the law of disannexation under Chapter 130 of the Texas Education Code. The Needville Independent School District (Needville ISD) is requesting that the Coordinating Board seek this opinion so that they may obtain clarification on the following questions:

- 1) Are there steps the Needville Independent School District can follow to dissolve the district's participation in the Wharton County Junior College District. If so, what are they?
- 2) If Needville ISD can remove itself from the junior college district, does Needville ISD have to establish or join another junior college district?

Based upon a review of the law, there are only two statutes that we can find that deal with disannexation of territory in a junior college district: Section 130.069 and Section 130.070 of the Texas Education Code. A brief analysis of the two sections follows.

Section 130.069 deals with the very specific case where certain territory is included simultaneously in two junior college districts. If the Needville ISD, or any portion of it, was to be found in two junior college districts at the same time, this statute would provide relief, we believe. The facts appear to be that the school district is located only in one district. When a territory detaches its membership in one junior college district through disannexation, the territory remains in the second junior college district, we understand. This agency did not read this provision as authorizing a petition or election to disannex based upon Needville ISDs factual circumstances.

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Texas Education Code, Section 130.070, also applies to territory that meets the specific condition of being "territory of an independent school district which is the only school district that has been annexed to a countywide independent school district junior college district." The statute states that the purpose of this disannexation is to constitute that school district as a separate independent school district junior college district. Further, this election would not be allowed if there is any bonded indebtedness that has been incurred after the original annexation. Seemingly, if this statute is used as the basis of a disannexation proceeding, the school district would then have to be constituted as an independent school district junior college district, to conform to the statute. Another reason this statute does not seem to apply to the situation of Needville ISD is because the junior college district it is a part of was never a "countywide independent school district junior college district."

It appears that both statute were written to accommodate specific situations. Our question is whether they, or some other law, form a general law for disannexation of territory from a junior college district.

Please do not hesitate to contact me should you have questions concerning this matter.

Cordially,

A handwritten signature in black ink, appearing to read "Kenneth H. Ashworth". The signature is written in a cursive style with a large initial "K".

Kenneth H. Ashworth