

Opinion No. 55-6257

August 18, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mrs. Georgia L. Lusk, Superintendent of Public Instruction, State Department of Education, Santa Fe, New Mexico

In your letter of August 8, 1955, you state that Section 73-9-14 (1), N.M.S.A., 1953 Compilation, 1955 Pocket Supplement, required 400 average daily attendance as a prerequisite to the establishment of an independent rural school district, and that Section 73-9-14 (2), N.M.S.A., 1953 Compilation, 1955 Pocket Supplement, requires only 300 average daily attendance to qualify. You ask our opinion as to which law governs.

Both of these sections result from amendments to Section 1, Chapter 17, Laws 1937, made by the 1955 Legislature. Chapter 25, Laws of 1955, which is the law requiring 400 average daily attendance, approved February 17, 1955, was enacted for the purpose of giving rural independent school districts the same powers as municipal school districts with respect to the issuance of bonds. Chapter 219, of the Laws of 1955, approved March 26, 1955, substituted 300 average daily attendance for the 400 daily attendance which had been required by the provisions of Chapter 17, Laws of 1937. This section likewise amended the 1937 statute to conform to the amendment made by Chapter 25, Laws of 1955.

It is obvious that the Legislature knew of the passing of Chapter 25, Laws of 1955, because of the fact that it amended the prior law in exactly the same manner as did that chapter. In addition, it provided the further amendment reducing the required average daily attendance. By any rule of statutory construction we feel that the provisions of Chapter 219, Laws 1955, being Section 73-9-14 (2), N.M.S.A., 1953 Compilation, 1955 Pocket Supplement, control. 50 **Am.Jur.**, "Statutes" Section 217 to 383.

By: Walter R. Kegel

Assistant Attorney General