

Opinion No. 58-01

January 6, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

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

QUESTION

QUESTION

When a municipal school district is consolidated with one or more rural districts, is the municipal board of education the governing board of the consolidated district until the next regular school election?

CONCLUSION

Yes.

OPINION

ANALYSIS

Your letter requesting this Opinion refers to Opinion of the Attorney General No. 57-112, dated May 27, 1957, and asks that we re-examine the same to determine its correctness. We are happy to do so.

After lengthy consideration, extended debate among ourselves, and upon more mature reflection, we are of the opinion that No. 57-112 is erroneous and that lawyers, like the balance of the human race, make mistakes on occasion.

That paragraph of § 73-20-4, N.M.S.A., 1953 Compilation, 1957 Supp., which controls this question is as follows:

"When a municipal school district or a rural independent district is consolidated with one (1) or more rural districts, the municipal school board or the rural independent board shall be the governing board for the consolidated district until the next regular school election, at which time successors to board members whose terms shall have expired shall be elected by the electors of the consolidated district in the same manner as members of boards of education in municipal school districts are elected."

Of course, this could result in obliterating a county school board, but such is inevitable when we bear in mind the quoted provision deals with consolidation of a municipal (or rural independent) school district with one or more rural districts, which latter are the

only districts which can be under county school board jurisdiction, and which districts do not have independent governing boards as such term is used in § 73-20-4, supra.

The view taken by us in 57-112 that a rural district has a governing board of its own i.e., the county board, was incorrect for the reasons above given, and to that extent is hereby overruled. Any other construction would render the quoted provision meaningless.

By way of statement and not excuse, we suggest No. 57-112 and this opinion be placed in your legislative file, as § 73-20-4, supra, at least as to this question, could well be clarified.

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