

Opinion No. 58-108

May 26, 1958

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

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

QUESTION

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1. In a reorganized school system, either rural, independent, or municipal, where several schools have been combined under one administration, can one of the schools which was originally separate, under a different administration be declared isolated in order to qualify under Law 73-12-7, Paragraph (a)?
2. Can a consolidated district be declared isolated in its entirety?

CONCLUSIONS

1. Yes. See Opinion.
2. No, the term applies to schools, not to districts.

OPINION

ANALYSIS

Section 73-12-7 (a), N.M.S.A., 1953 Compilation., 1957 Supplement, provides:

"Not more than one (1) teacher shall be employed:

(a) In rural schools to every twenty (20) pupils or major fraction thereof except in isolated rural schools a minimum of two (2) teachers may be employed where the average daily attendance is not less than sixteen (16) pupils."

By its terms the statutory exception is applicable to "-- isolated rural **schools** --" (Emphasis ours), irrespective of whether the particular school is under the jurisdiction of a county, independent, or municipal district board, and whether consolidated or not.

In addition, the exception came into the statutes by means of Laws 1955, Ch. 282 at a time when various types of school districts had been recognized by the Legislature, yet

it was made applicable to all schools of an isolated rural nature without apparent regard to how administered.

Furthermore, the statute is compiled as part of Chapter 73, Article 12, dealing with teachers and other employees, and is not found in connection with Articles 9, 10, or 11 dealing with rural, municipal and high school districts respectively.

For these reasons, we are of the opinion the statute in question, when employing the term "-- isolated rural schools --", has reference more to geographic location and circumstances rather than to the nature of the district exercising jurisdiction over the school or schools in question.

However, information furnished by your office discloses one of the schools has an average daily attendance of 15, which fails to meet the requirement in the exception as to average daily attendance.

As to the other schools, if a finding of isolated rural status is made, advantage can be taken of the exception.

Consistent with the foregoing analysis, we cannot hold an entire consolidated district can be declared isolated as such, although it is theoretically conceivable each school therein could be so declared.