

Opinion No. 58-177

August 26, 1958

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

TO: Mr. John C. Hays, Executive Secretary, Public Employees Retirement Board, Santa Fe, New Mexico

QUESTION

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When two or more school districts are consolidated, is the effect of the consolidation such as to terminate the legal existence of the districts covered by the consolidation order?

CONCLUSION

Yes, with certain exceptions expressly provided by statute.

OPINION

ANALYSIS

The consolidation of school districts is set forth in Secs. 73-20-1, et seq., as amended. A comprehensive statutory scheme is therein provided. For example, in Sec. 73-20-4 (P.S.), it is provided that upon consolidation, a new board takes over as governing authority of the **consolidated** district.

In the instance you have in mind, De Baca County School Districts No. 7 and No. 12 (being all the districts under the jurisdiction of the De Baca County Board of Education) were consolidated with Fort Sumner Municipal School District. We held in Opinion of the Attorney General No. 58-1, rendered January 6, 1958, that thereafter the municipal board of education was the governing board of the consolidated district. **In so holding, we recognized the effect was to obliterate the county school board.**

In Opinion of the Attorney General No. 58-73 dated April 4, 1958, we pointed out, however, that under 73-20-4, a former district consolidated with another retains its identity, by express command of the statute, **for purposes of debt service.** See the same section providing that consolidation for taxation purposes is effective January 1, following the consolidation. See also the first paragraph of Sec. 73-20-6 (P.S.).

Your inquiry arises out of questions as to social security coverage of employees of the former De Baca County Board of Education. For this and any other purpose not

expressly mentioned in the statutes, we hold the districts formerly under the jurisdiction of said board are no longer legal entities.

Any other interpretation would nullify the plain meaning and purpose of the laws on school consolidation. That purpose, except as noted, was to create new legal entities and terminate the old ones upon consolidation, and our interpretation must carry out that purpose. **Fisherdick v. San Juan County Board of Education**, 30 N.M. 454. 236 P. 743.