

Opinion No. 58-154

July 23, 1958

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

TO: Honorable Donald A. Martinez, District Attorney, Fourth Judicial District, Las Vegas, New Mexico

QUESTION

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Where there are three rural school districts under the jurisdiction of a county school board, one of which meets the requirements of Sec. 73-9-14, N.M.S.A., 1953 Comp., 1957 Supp., and two of which do not, may the Superintendent of Public Instruction convert all three districts to independent rural status without a consolidation having been first effected?

CONCLUSION

No.

OPINION

ANALYSIS

The section cited in the question provides as follows:

"Any rural school district in which the average daily attendance for two [2] consecutive school terms exceeds three hundred [300], and has successfully maintained a regular four [4] year high school course that has met the requirements of the state board of education as to certification of teachers, standardization of subjects taught and sufficiency of equipment may become an independent rural school district upon the certification of the superintendent of public instruction and thereafter shall be governed by a board of school directors appointed or elected and holding office as in other rural school districts, said board to consist of five [5] members and to hold office as hereinafter provided.

"Said board shall have the same powers and perform the same duties as are provided by law for municipal boards of education."

In the facts as given by you, Mora County has three rural districts under the jurisdiction of the County School Board of Mora County. One district meets the requirement of the statute but two do not, due to insufficient A.D.A. Under these facts, the authority of the

Superintendent of Public Instruction is restricted, in converting, to the one rural school district meeting the statutory requirements. This, in no way, conflicts with Sec. 73-20-3, N.M.S.A., 1953 Comp., 1957 Supp., covering, among other things, consolidation of rural school districts if the Board exercising jurisdiction over the same has submitted a resolution asking for consolidation to the State Board of Education.