

Opinion No. 65-178

September 10, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Mrs. Betty Lujan, Director, Social Security Division, Public Employees Retirement Board, 113 Washington Avenue, Santa Fe, New Mexico And Mr. Rodman M. Cookson, County School Superintendent, County Court House, Roswell, New Mexico

QUESTION

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Between now and the election of a school board for the new independent school district in Chaves County on October 19, 1965, which board has the authority to act for the school district -- the interim board or the old county board?

CONCLUSION

The appointive interim board.

OPINION

{*293} ANALYSIS

The question here posed is important for a number of reasons, not the least of which is the fact that in order to prevent the loss to school personnel of two quarters of social security coverage the board with authority to manage the affairs of the school district must **very shortly** adopt a resolution calling for a referendum on social security coverage.

Chapter 30, Laws 1965, compiled as Section 73-20-7, N.M.S.A., 1953 Compilation (P.S.) is the statute which required reorganization {*294} of county school districts. The task at hand is to examine this statute in its entirety and determine whether the reorganization of the Chaves County School District became effective on September 1, 1965 or only becomes effective after the board for the new independent school district is elected. If the answer is the former, the appointive interim board is the one which now has authority to determine the affairs of the district; if the answer is the latter, the old county school board has such authority until election of the new board.

While the new independent school district was actually created by the State Board of Education rather than simply approved by it, we vote that Chapter 30 provided that county boards were to prepare plans for reorganization and present them to the State Board for approval on or before June 30, 1965. The statute then provides that "if

approved by the State Board of Education, **the plan shall become effective** on a date set by the state board of education, but **not later than September 1, 1965.**"

Since the "plan" is the reorganization plan, this certainly indicates that reorganization was to be effected no later than September 1, 1965.

The statute also provides that "Should the revised plan be disapproved or if the county board fails to submit a plan, the state board of education shall **effect the administrative reorganization . . . to become effective** not later than September 1, 1965." The statute further provides that "when the reorganization has been **effected**, county boards of education are dissolved."

Since the reorganization is to become **effective** no later than September 1, 1965, it is our opinion that the reorganization was **effected** on August 31, 1965, when the State Board acted, or on September 1, 1965 if the Board's action so stated. Thus the County Board was dissolved at that time.

While it is true that the only specific duty imposed upon the interim board was to conduct a special election for the board of the new district, it is the only board available to act on all other urgent matters, and, we feel, the legislature did not intend that a hiatus exist from the time of the State Board's reorganization until election of a new board. This is particularly true when we note that the election date could have been as much as ninety days after appointment of the interim board.

When the new board is elected and qualified, it will, necessarily, have all the powers granted to such governing boards of the public schools.