

Opinion No. 38-1909

March 15, 1938

BY: FRANK H. PATTON, Attorney General

TO: Mr. H. R. Rodgers Superintendent of Public Instruction Santa Fe, New Mexico

{*220} I have your letter of March 15th wherein you make inquiry as to the method to be followed in dissolving a consolidated school district and placing the various districts upon the same basis occupied by them prior to the consolidation, namely, rural school districts.

Chapter 98, Section 3 of the Session Laws of 1935, prescribed the method to be followed for changes and consolidations of school districts, and after providing for the filing of a petition with the County Board of Education and notice to the State Board of Education, we find this language:

"Within twenty days after receipt of the written approval of the State Board of Education, the County Board of Education may, at its discretion, call an election to be held at such place or places in each district of the proposed consolidated district as it may determine, and such election shall be held under the direction of the County Board of Education."

By Chapter 133 of the Session Laws of 1933 we find that the size of a consolidated district is limited to certain lengths of boundary lines.

{*221} Also, as a part of the law on change and consolidation, we find provision in Section 120-807 of the 1929 Compilation for a reapportionment of funds and it is provided, briefly, that upon such change or consolidation the county board shall make such reapportionment of the resources, debits and credits of the affected districts as it shall deem proper, subject to review by the State Board of Education.

From an entire reading of all of these provisions of law I have arrived at the conclusion that the words "change" and "consolidation" are used interchangeably and that they mean the same thing.

The strongest determining factor in arriving at this conclusion is the language above quoted and taken from Section 3, Chapter 98, of the Laws of 1935. This language can have no reference to anything other than a "proposed consolidated district."

Apparently, under the present status of the law, after schools have once been consolidated there is no statutory method by which they may revert to their former status of ordinary rural school districts.

This is a matter which should be given attention by the next session of the legislature.