

**Opinion No. 43-4226**

February 8, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mrs. Georgia L. Lusk, Supt. of Public Instruction, Santa Fe, New Mexico

We are in receipt of your letter of February 2, 1943, and the enclosed Joint Resolution, whereby School District No. 32 of Santa Fe County, and School District No. 8 of Torrance County were consolidated. You ask our opinion as to whether this consolidation is legal, since it was done by a Resolution dated August 3, 1920, there having been no election.

Chapter 14 of the Laws of 1919 provided for such procedure in the following language:

"Upon the joint action of two or more county boards of education having jurisdiction contiguous rural territory, situate and lying in a compact body in two or more counties, may be consolidated into a school district by a vote of a majority of each of said boards at a joint meeting thereof. The said vote shall thereupon be certified to the respective County Clerks of said counties, and to the Superintendent of Public Instruction. The said vote favorable to the consolidation shall constitute the act of consolidation."

The act then provides that the county with the largest number of pupils shall be the dominant county; that the board of the dominant county shall administer the district with control over the finances of such district; that the pro rata share of the school fund be transferred by the servient county to the dominant county; that elections and bond issue elections be held by the dominant county with the provision that the residents of the district in the servient county be permitted to vote; and that a pro rata share of the taxes collected by the servient county must be paid to the dominant county.

Since this consolidation proceedings, as shown by the resolution, was affected during the time the above quoted statute was in force, and since it appears that the provisions of this statute were complied with, it is my opinion that School District No. 32 of Santa Fe County, and School District No. 8 of Torrance County were legally consolidated.

For your information, this statute was repealed by Chapter 148 of the Laws of 1923.

By ROBERT W. WARD,

Asst. Atty. General