

Opinion No. 58-73

April 4, 1958

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

TO: Mr. Homer W. Heathman, Jr., Chief, Public School Finance Division, Department of Finance and Administration, Santa Fe, New Mexico

QUESTION

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Does a consolidated school district have the legal right to call and reissue a bond which is presently in the name of a former school district consolidated into the present consolidated district?

CONCLUSION

No.

OPINION

ANALYSIS

In our opinion, your question is answered by the provisions of the second paragraph of Sec. 73-20-4, N.M.S.A., 1953 Comp., 1957 Supp., which reads:

"Whenever any school district consolidated hereunder shall have outstanding and unpaid any bonds or certificates of indebtedness, such district shall retain its identity for the purpose of debt service until such time as such bonds or certificates are paid in full. No district consolidated under the provisions of this act (73-20-1 to 73-20-4) shall be or become responsible for the debt service of any other district included in such consolidation." (Emphasis ours).

It is the first sentence which appears to be dispositive. Under its terms, the former district retains its status as a legal entity, for a limited purpose, however, i.e., discharging its bonds or certificates of indebtedness. Thus, inferentially at least, the new consolidated district could not legally do this, by refunding or otherwise, for if it could, there would be no reason for the former district to continue in its limited role.

While beyond the scope of the inquiry, we doubt that the former district could engage in refunding either. Otherwise, it could theoretically perpetuate itself, albeit for a limited purpose, for a period of time beyond the final maturity date of outstanding bonds or

certificates of indebtedness. Such would, in our opinion, do violence to the first sentence quoted above.