

Opinion No. [30-73]

January 22, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: Hon. Robert Brady, Hondo, New Mexico.

SCHOOLS -- Union High School, District petitions necessary before election. 120-1003, Code 1929.

OPINION

I have before me yours of July 20, 1930, in which you again present the question of the necessity of boards of directors petitioning for the formation of the Union High School District.

If you will refer to our letter of February 24, 1930, you will find that the question was fully answered therein.

By section 120-1003 it is required that in order to bring about an election for such union petitions must be filed with the board of county commissioners. The petition from the governing authorities of the school districts wishing to unite for the purpose of forming a union high school district. The words "governing authorities" can mean nothing else than the several boards of directors and a reading of section 120-1004 shows clearly that the governing authorities could not be intended to mean the county board of education for we find there that the county board of education has a duty to perform in the event the members of the governing boards are unable to agree in the selection of the member of the Union High School Board, who is to serve at large, that is, in districts created by the consolidation of an even number of districts.

You say that the district attorney, Mr. Benson Newell, is of the opinion that if the local boards of the different districts do not sign the petition you cannot hold such an election. With this opinion we agree and are assured that you will do well to follow Mr. Newell's advise in the matter.