

Opinion No. 35-853

January 12, 1935

BY: FRANK H. PATTON, Attorney General

TO: Mr. L. Parker, Supt. Dexter Public Schools, Dexter, New Mexico.

{*33} I received your letter of January 5th inquiring as to the proper procedure to follow in a consolidation of your municipal school district with an adjoining rural school district.

In my former opinion of January 3rd, I stated that, in our opinion, such a consolidation is not authorized by the laws of the State of New Mexico. However, since rendering this former opinion, I have further examined the question and find that Section 120-906, New Mexico Statutes Annotated, 1929 Compilation, as amended by Chapter 119, Section 10, Laws of 1931, and further amended by Chapter 22 of the Laws of 1933, now provides as follows:

"Changes or consolidations shall be ordered jointly by the municipal and county boards of education where such changes or consolidations affect both municipal and rural districts . . . Petitions for changes and consolidations shall be filed and elections held in substantially the same manner as in the case of rural school districts except that if a majority of the votes cast at such election shall be in favor of consolidation or change, it shall be made upon order of the State Board of Education."

In view of this provision of the statutes, I now wish to withdraw my former opinion to you and you are now advised that in the opinion of this office such consolidation between your municipal school district and a rural school district as contemplated is authorized under the foregoing statute and the procedure effecting such consolidation should be that prescribed by the above statute and also that prescribed by Section 120-805 of the New Mexico Statutes, 1929 Compilation, as amended by Chapter 119, Section 6 of the Laws of 1931.

By: J. R. MODRALL,

Assist. Attorney General