

OPINION
54-29

May 25, 1954 (OPINION)

EDUCATION

RE: Levy Building Fund

We have received your letter of May twentieth with reference to the school building fund.

You state in your letter that a common school district in your county voted to create a building fund on June 5, 1951, under authority of section 57-1516 of the 1953 Supplement, and have since been levying for that purpose to a special school district and such change has now been effected.

The new district embraces the same territory and the same people as the old district. Now a petition has been filed with the new board asking that the question of discontinuing the building fund program be submitted to the voters of the district and you ask whether the board must call an election to determine that question.

Section 57-1516 of the 1953 Supplement provides, among other things, that the governing body of any school district may levy taxes annually for a school building fund not in excess of ten mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any school district.

It is our opinion that since there is no time limit placed upon this levy and there is no statutory provision for the discontinuance of the levy, that it is for the school board of such district to decide whether a levy shall be made and if made when it shall be discontinued.

It is further our opinion that the formation of the new district from the old does not change or alter rights of the new board in regard to the building fund because the persons, property and territory are the essential parts of a municipal corporation.

The rights and liabilities do not change when a new form is given to an old municipal corporation. This, of course, is particularly true when as in this case the new organization embraces the same territory, and the same people as the old.

We trust that this answers your inquiry.

LESLIE R. BURGUM

Attorney General