

Opinion No. 53-5754

May 15, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Honorable Tom Wiley Superintendent of Public Instruction Santa Fe, New Mexico.
Attention Tito Valdez Director Textbook Division

{*154} In your letter dated April 15, 1953, you inquire whether the State Textbook Division may set aside an undistributed portion of the amount appropriated for text books to be used for emergencies or contingencies, and also whether the State Board may designate a portion of the State Textbook Fund for the purchase of instructional materials other than textbooks, such as visual aids.

In answer to your first question, § 55-1712 of the 1941 Compilation provides for preparation and approval of a detailed budget for each county, school district or educational institution, the pupils of which are entitled to receive free textbooks. At the close of this section appears this language:

"In case of emergency, the approved budgets above referred to may be increased or reduced with approval of the State Board of Education and the State Board of Finance."

Under this language we believe the State Board of Education could set aside an undistributed portion of the amount appropriated to be used in carrying out the legislative intent in providing for emergency increases or reductions in the current budgets.

Concerning your second question, the Act creating the Free Textbook Division and the appropriation bill neither make any provision for use of the funds appropriated for anything except textbooks. In the appropriation made by the 1953 Legislature, under Item 17, appear the words "Free Textbooks" and the sum of \$ 700,000. In the paragraph following the specific items appropriated {*155} appears this language:

"Item 17 will be appropriated directly from the mineral leasing fund for the purchase of textbooks," . . .

In view of the specific language of the appropriation and the language in the original Act creating the division, it is the opinion of this office that the State Board of Education may not legally designate a portion of the State Textbook Funds for the purchase of anything except textbooks.

We trust that this answers your inquiry satisfactorily.

By: C. C. McCulloh

Assist. Attorney General