

## **Opinion No. 57-110**

May 27, 1957

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

**TO:** The Honorable Georgia L. Lusk, Superintendent of Public Instruction, Santa Fe, New Mexico

### **QUESTIONS**

#### QUESTIONS

May the Superintendent of Public Instruction continue her operations and authority in respect to the Surplus Property Agency as has been done prior to the Executive Order of the Governor?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

In Opinion of the Attorney General No. 57-94, dated May 13, 1957, this office held, among other things, that payroll vouchers for the personnel of the agency could not be approved by the Superintendent of Public Instruction insofar as any such approval purported to be pursuant to that portion of the Governor's Executive Order transferring the personnel of such agency. We so held for two reasons: 1. That such transfer was not a temporary transfer as contemplated by § 5-4-3, N.M.S.A., 1953 Compilation; and, 2. That approval for such transfer had not been given by the State Board of Finance. We understand that the said Board recently met, but took no action on the proposed transfer.

In accordance with our holding that the portion of the Governor's Order which purported to transfer the personnel was void, we hold that such was thus ineffective and that the superintendent of Public Instruction may approve salary vouchers for the personnel of the Surplus Property Agency, so long as she acts as she has done prior to the Governor's Executive Order, and does not purport to act under that Order.

Furthermore, since we also held in the above opinion of the Attorney General that the Surplus Property Agency was still in existence, it logically follows that regular distribution of surplus properties received by the State may still continue under the supervision of the Superintendent Public Instruction.