

Opinion No. 57-283

October 30, 1957

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

TO: Mr. Tito Valdez, Director, Textbook Division, State Department of Education, Santa Fe, New Mexico

QUESTION

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Should monies collected for the loss, damage, or destruction of text books be forwarded to the county treasurer, and placed to the credit of the proper school district?

CONCLUSION

Yes.

OPINION

ANALYSIS

Our research of the statutes dealing with free text books, their distribution, the responsibility for the same, etc., discloses two sections which, in our opinion, control the issue. The first is Section 73-18-9, N.M.S.A., 1953 Compilation, which provides:

"Said free text books shall be distributed to the children of this state attending schools in this state, and the parents or guardians of such children shall be responsible for the loss, damage or destruction of books issued to their children or wards, and no books shall be issued to the child or ward of any parent or guardian who refuses to pay for such book damaged, lost or destroyed by such child or ward, unless the parent or guardian is, in the opinion of the board, financially unable to pay for such loss, damage or destruction."

and which clearly places responsibility upon the parent or guardian, in event of loss, damage or destruction.

The second statute is of even greater consequence in this matter. It is Section 73-18-10, N.M.S.A., 1953 Compilation, and which reads:

"In the event any parent or guardian desires to furnish text books to his child or ward, such text books shall be sold to such parent or guardian at the same prices charged to the school district. Such sales shall be made by the county school superintendent or the

boards of education of municipal or other independent districts in their respective districts. Money so collected, **or for the loss, damage or destruction of text books, shall be transmitted to the the county treasurer of the respective county and placed to the credit of the proper district.**" (Emphasis ours.)

From the language emphasized, it is clear that funds paid for loss, damage or destruction of text books, should go to the proper county treasurer for credit to the proper school district. We find nothing in the statute calling for a distinction, as to receipts for loss, damage or destruction between books purchased with state funds, and those purchased with county funds.