

Opinion No. 59-89

July 30, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Mr. R. H. Grissom Chief Public School Finance Division Department of Finance and Administration P. O. Box 668 Santa Fe, New Mexico

{*147} This is written in reply to your recent request for an opinion on the following question:

"Does the Department of Finance and Administration have legal authority to authorize a municipal school district to establish a payroll account in a local bank?"

In answer to your question, it is my opinion that: No, the Department cannot authorize this procedure.

While it is true that the Public School Finance Division has the authority to establish a uniform accounting system for schools in general under § 73-3-6, N.M.S.A., 1953 Compilation, any accounting system so established must, of course, comply with the statutes dealing with the handling of public moneys. One such statute is § 73-7-28, N.M.S.A., 1953 Compilation, which reads in part as follows:

"All school funds to the credit of any district shall be kept by the county treasurer and withdrawn only by warrant or voucher of the proper board of education, as and when the expense matures . . ."

This statute prohibits the procedure mentioned in your request. Under your suggested procedure the board of education would submit to the county treasurer a voucher in an amount sufficient to cover the entire school system payroll. This voucher would then be deposited in a local bank and payroll checks would then be written on this account to pay the salaries of persons employed by the school system. Such a procedure would necessitate the submission of the voucher to the county treasurer sometime in advance of the date when the salaries are payable. This would be withdrawing funds on voucher before the expense matures and would be in contravention of the above quoted section.

Since the Department of Finance and Administration cannot authorize a prohibited procedure, it is, therefore, my view that the Department cannot authorize the procedure proposed by your request.