

Opinion No. 19-2167

January 24, 1919

BY: N. D. MEYER, Assistant Attorney General

TO: Mr. Tranquilino Roybal, Clerk, Board of Education, Wagon Mound, New Mexico.

Distribution Funds to Municipal School Districts According to Enumeration.

Illegal to Transfer School Funds from Sinking to Other Funds.

School Funds Must Be Drawn by Warrant.

OPINION

Your recent letter addressed to this office, in which you ask the following questions:

Information in regard to all school money belonging to a village after incorporation.

Can a transfer be made from a sinking fund to the district school fund to be used for school purposes, and later refunded?

The right to demand all money in the hands of the county treasurer that belongs to a particular district, are answered in their order.

Section 3 of Chapter 105, 1917 Session Laws, defines incorporated cities, towns and villages and territory attached thereto for school purposes, to be municipal school districts. A municipal school district is apportioned out of the county school funds its portion of said funds according to enumeration the same as any other school district, and is placed to the credit of said district by the county treasurer.

It is the opinion of this office that no transfer from a sinking fund to any other fund is legal and any transfer so made would be void and of no effect. There is no provision of law in our statutes authorizing the transfer of money from a sinking fund into another, and it has been consistently held by this office that the taking of moneys from said fund in order to imburse another is entirely unjustified and without legal support with this exception:

Sec. 4947, Codification 1915,

"Any surplus in the sinking fund of any school district may be applied by the directors of said district to the building of additional school houses or to the enlargement of their present school buildings."

State aid for certain school purposes may be obtained under Chapter 105, Section 28, Laws of 1917, and in this connection I would suggest that you communicate with Honorable J. H. Wagner, State Superintendent of Public Instruction, Santa Fe, New Mexico.

After apportionment of school moneys to the different school districts within the county, the county treasurer shall hold same to the credit of said districts, subject to the respective warrants of the county board of education and the treasurers of boards of education of the municipal districts. Therefore it is my opinion that you have authority to draw on the county treasurer by warrant for any legal expenditures or disbursements and the same shall be honored by said treasurer so long as there is sufficient funds to the credit of your district with said treasurer.

Hoping that this will answer your questions as set forth herein, I beg to remain,