

**Opinion No. 19-2444**

December 5, 1919

**BY:** HARRY S. BOWMAN, Assistant Attorney General

**TO:** Mr. J. H. Wagner, Superintendent Public Instruction, Santa Fe, N.M.

Non Incorporated Village Cannot Create Independent School District.

**OPINION**

We have your oral request, accompanied by a letter from S. J. Fox, Clerk School District No. 28, Lea County, for an opinion as to the power of the village of Tatum to create an independent school district without the necessity of Incorporating as a village, and in reply wish to advise you as follows:

The village of Tatum, if it is not incorporated, which I assume it is not, has no power to create a school district the boundaries of which are identical with those of the village. It would require incorporation of the village in order to create a district similar to the school districts of cities and towns.

By the authority granted under section 7, Chap. 105, Laws 1919, however, the County Board of Education could alter the school district within which this village is situated and could create a district whose boundaries would be the same as those of the village, provided that the law as expressed in that section is complied with, and that the district would conform with the requirements as therein stated.

While the letter from the clerk of this district is not clear as to the information that he desires, we gather that the above answers the inquiry which he had in mind.