

**Opinion No. 20-2466**

January 20, 1920

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

**TO:** Mr. Jonathan H. Wagner, Superintendent Public Instruction, Santa Fe, New Mexico.

Payment County Surveyor For Surveying School Districts.

**OPINION**

In reply to your oral inquiry, accompanied by a letter from Earl Douglass, County Superintendent of Schools of San Juan County, in regard to the fund from which county surveyors should be paid for services rendered in the survey of consolidated school districts, and as to the person authorized to request the surveyor to make the survey, wish to advise you as follows:

Mr. Douglass in his letter refers to section 4942 of the Code, but as this section contains nothing in regard to surveys of school districts, we assume he refers to section 4842 of the Code of 1915, which provides that the survey of school districts shall be made by the county surveyor at the request of the superintendent.

This section standing alone would authorize the superintendent to have the county surveyor perform the services, but Chapter 12, Laws 1915, provides that the compensation of county surveyors should be ten dollars per day for each day actually employed under orders by the Board of County Commissioners.

It would therefore appear that in order to obtain the compensation provided for by the last named chapter, which, being the later enactment, supersedes section 4842, in any matters wherein they may be in conflict, must necessarily be under the orders of the County Commissioners. It would be advisable, therefore, that the superintendent request the Board of County Commissioners to order the surveyor to perform the services, and in that manner no conflict could arise.

The fund from which the payment should be made is without doubt the General County Fund, as section 4842 provides that "the expense shall be charged to the county wherein the school district is situated and be allowed by the Board of County Commissioners."

It is apparent since no other fund is designated from which these payments shall be made that it was intended that the warrants should be drawn upon the General County Fund.

We are returning to you herewith the letter from Mr. Douglass which accompanied your request for an opinion.