# Opinion No. 32-359

January 14, 1932

**BY:** E. K. Neumann, Attorney General

**TO:** Mrs. Georgia L. Lusk, Supt. of Public Instruction, Santa Fe, New Mexico.

{*131} We have your letter of January the 12th, to which was attached the letter of Clementine Ivie, Supt. of Public Instruction Union County, New Mexico, wherein she requests the information as to whether or not the premium on the bond given by her deputy is to be paid by the deputy individually or to be paid from the administrative fund of her office and states the County Commissioners of that County have ruled that all county deputies must pay the premiums on their own bonds.

The County Commissioners are correct in their contention, which, in effect, is that the public funds cannot be used for the payment of premiums on the bonds of deputies given to the officers of the particular county offices. Of course, the premiums can be paid by the deputy herself, or by the officer taking such bond from the deputy.

Section 33-3216 of the 1929 Code is as follows:

"Wherever under the law any county officer is required to give a bond the premium thereon shall be paid out of the county salary fund in case a surety company bond is given."

Under such section, only those county officers required to give bond by law can have the premium paid by the county and it is illegal for the County Commissioners to pay the premium on surety bonds of others. If, however, in our opinion, {*132} the law requires a deputy to give bond the commissioners can in that event order the premiums thereon paid out of the salary fund.

In the present instance, however, we are unable to find that the law requires a deputy county school superintendent to give a bond, and consequently if any bond is given it is given for the protection of the county school superintendent against the acts of her deputy and is for the county school superintendent's sole protection, consequently the premium thereon must be paid for either by the superintendent or by the deputy appointed.

Trusting the above answers your question in full, I am