

Opinion No. 53-5638

January 15, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Tom Wiley Superintendent of Public Instruction State Department of Education
Santa Fe, New Mexico

{*23} This is in answer to your letter dated January 9th, 1953 with enclosure from Charles Mills, Superintendent, same date wherein it is requested that this office give you an opinion as to the procedure for the Hobbs Municipal Board of Education to follow in setting up its own Board of Finance to facilitate the handling of deposits and disbursements.

Section 55-907 N.M.S.A., 1941 Compilation as amended gives a properly constituted Municipal Board the same powers and duties respecting its districts and schools as are possessed by county boards of education. In regard to matters of finance, your attention is directed to Section 55-622 and Section 55-626, N.M.S.A., 1941 Compilation as amended which in effect points out that the Treasurer of the county in which the school is located is the proper officer to receive and disburse funds coming into the possession of school boards. In 1943 this office in opinion No. 4384 stated as follows:

"It is contemplated that all school funds be paid to the treasurer of the county and withdrawn only when the various items set forth in the budget become payable, and that if there be surplus funds, since they are lying with the county treasurer, or subject to his order, he is the proper one to invest such funds."

In this matter I also direct your attention to opinion of this office issued March 20, 1942, No. 4050, wherein the manner for disbursements from county boards is discussed.

I find no prohibition against municipal corporations, or school boards duly constituted from designating a finance board. Generally procedures in this respect require a resolution or other validating order of the board appointing one of its own members and such other administrative employees as it deems necessary to sit as a finance board and to advise the parent board of such matters as would facilitate the handling of business. Such a subsidiary board is advisory in nature and would hold its office at the pleasure of the parent board which should in all cases approve any official acts and validate any matters requiring its official sanction.

In summation I would say that it does not appear that a board of finance of a municipal school board of education can in its own name handle deposits and disbursements of funds, but as such after being duly constituted can only act as in an advisory capacity to the parent board.

By: William J. Torrington

Asst. Attorney General