

Opinion No. 55-6277

September 7, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mrs. Georgia L. Lusk, Superintendent of Public Instruction, Department of Education, Santa Fe, New Mexico

You have asked our opinion on the following: A county board of education has appointed a member other than the county school superintendent as secretary of the board. You ask whether in such a situation the county school superintendent or the secretary of the board has charge of the budget expenditures for the county school system including salaries, travel expenses and other items, and who is to issue warrants for their payment.

The provision of the statutes making the county school superintendent ex officio secretary of the county board of education, was repealed by Chapter 70, Laws 1949. There is no specific authority for the board to elect its own secretary. However, this power would be an implied power since it is necessary that the board keep minutes of its transactions, and someone must be delegated that authority. In so far as expenditures of funds is concerned, your attention is directed to Section 73-7-28 and 73-7-30, which provides as follows:

"All school funds to the credit of any district shall be kept by the county treasurer and **withdrawn only by warrant or voucher of the proper board of education**, as and when the expense matures. Treasurers of all county and municipal boards of education shall forthwith transmit to the county treasurer for credit of their respective districts any school moneys in their possession or control at the time this act takes effect."
(Emphasis supplied)

"73-7-30 - Funds in the county treasury to the credit of the respective school districts shall be **withdrawn only upon the warrants of the county, independent or municipal boards of education or union high school boards, as the case may be**, and in no event shall any money credited to any district be expended or debts be incurred, except as herein authorized." (Emphasis supplied)

You will note that these statutes refer to warrants of the board of education rather than warrants signed by any particular officer thereof. This office has previously ruled in Opinion No. 4050, dated March 20, 1942, that any signature which shows that the majority of the board has concurred in the order of the warrant will be sufficient to make it legal. A copy of this opinion is enclosed herewith for your information.

It is therefore our opinion that it is permissible for warrants to be attested by the appointed secretary of the board, together with the signature of the president or that such warrants may be valid when signed by a majority of the board.

(Opinion No. 4050.)

By: Walter R. Kegel

Assistant Attorney General