

Opinion No. 60-157

September 1, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. W. H. Foster Superintendent of Schools Farmington Municipal Schools
Farmington, New Mexico

QUESTION

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May the Farmington Municipal Board of Education let school lands for oil and gas purposes without sealed bids?

CONCLUSION

Yes.

OPINION

{*545} ANALYSIS

Municipal boards of education are given the same powers over schools and school property within the municipal school district that county boards of education are given over such property within the jurisdiction of the county board. See N.M.S.A., 1953 Comp., § 73-10-2. By § 73-9-1, county boards of education are given the power to acquire and dispose of school property, and by the provisions of § 73-9-7, N.M.S.A., 1953 Comp., county boards of education are given supervision and control over school sites, buildings and equipment.

In Opinion of the Attorney General No. 57-18, February 7, 1957, it was held that a municipal board of education has the power to let school property, but the opinion did not deal with whether or not sealed bids should be required.

Opinion of the Attorney General No. 57-81, April 24, 1957, held that school buildings could be sold at private sale, without advertisement, if the approval of the Superintendent {*546} of Public Instruction is first obtained. If a sale of school property can be made at private sale, without advertisement, and, hence, without bids, it seems even more clear that school property may be let without bids.

In accordance with § 73-8-14, N.M.S.A., 1953 Comp., where school lands are sold, transferred or disposed of, the written consent of the Superintendent of Public Instruction must first be obtained. Since oil and gas are mineral interests in land, we hold that an oil and gas lease is a sufficient transfer of an interest in land to require the

consent of the Superintendent of Public Instruction. If such consent is obtained, we hold that the municipal board of education may let school land for oil and gas purposes without public advertisement or sealed bids.

This opinion assumes that your school district, when it acquired title to the lands in question, took title to the underlying minerals.

By: Norman S. Thayer

Assistant Attorney General