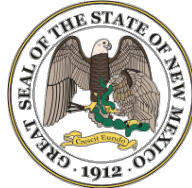


STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY



GENERAL

HECTOR H. BALDERAS
ATTORNEY GENERAL

December 1, 2022

Mr. Antonio Ortiz, Director
Student Services & Transportation Division
New Mexico Public Education Department
300 Don Gaspar
Santa Fe, NM 87501

Re: Opinion Request regarding the Use of General Obligation Bond proceeds and Public School Capital Improvements Act Revenue for Construction of Teacher Housing

Dear Mr. Ortiz:

Gallup-McKinley County Schools has asked the Office of the Attorney General to revisit N.M. Atty. Gen. Opinion No. 81-01, discussing the use of general obligation bond proceeds and Public School Capital Improvements Act revenue for the construction of teacher housing, especially in view of the Public School Code's definition of "school building." In that opinion, the Attorney General concluded that "insofar as buildings used for **teacher housing** are not used for instructional purposes, such buildings do not fall within the meaning of the term "school building" as it is commonly used in bonding provisions." N.M. Atty. Gen. 81-01.

We note that since at least 2004, however, the term "school building" as used in the Public School Code,¹ including in Section 22-18-1, relating to a school district's authority to issue general obligation bonds, and Section 22-25-3, relating to a local school district's authority to submit the question of a capital improvements tax to the qualified electors of the district, "means a public school, an administration building and related school structures or facilities, *including teacher housing*, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district." NMSA 1978, Section 22-1-2(P) (2003, as amended through 2019).

¹ The Public School Code is codified at Chapter 22 NMSA 1978 [except Article 5A]. §22-1-1 (1967, as amended).

Director Antonio Ortiz

December 1, 2022

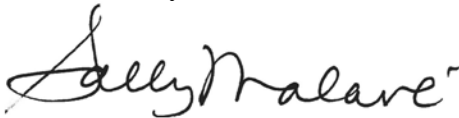
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Hence, a school district contemplating issuing general obligation bonds under Section 22-18-1 for the purpose of “erecting, remodeling, making additions to and furnishing school buildings” may use the proceeds of said bonds for the construction, maintenance and repair of teacher housing, among other things. Similarly, a local school district may use capital improvement tax revenues authorized by Section 22-25-3 for the purpose of “erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings and pre-kindergarten classroom facilities” for the construction and renovation of teacher housing.

To the extent N.M. Atty. Gen. Opinion No. 81-01 conflicts with this opinion, it is hereby overruled.

Please note this opinion is a public document available to the general public. Therefore, we may provide copies of this letter to the general public. If we may be of further assistance, or if you have any questions regarding this opinion, please let us know.

Sincerely,



Sally Malavé

Director, Open Government Division

Cc: JVanna Hanks II (jhanks@gmcs.org)
Mark Fleisher, Esq. (mfleisher@aol.com)