Opinion No. 15-1644

October 1, 1915

BY: H. S. CLANCY, Assistant Attorney General

TO: Prof. Rupert F. Asplund, Department of Education, Santa Fe, New Mexico.

Surplus in general county school fund of not less than $ 200.00 may be expended for school buildings.

OPINION

{*216} I am just in receipt of your letter of even date, enclosing one from Mr. W. Melvin Fox, Superintendent of Schools of Belen, together with a copy of your letter in reply thereto.

This office fully concurs with what is stated by you in the concluding sentence of your letter to Mr. Fox. Under the provisions of Section 4896 of the Codification of 1915, whenever there is a surplus in the general school fund of a county to the credit of any school district, to an amount not less than $ 200.00, such surplus may be expended by the directors for the procuring of a suitable site and the erection thereon of school buildings, or for the repairing of any school buildings. Section 4897 provides that whenever a petition, signed by one-half of the legal voters of such school district, is presented to the county school superintendent praying that such surplus money shall be turned over to the school directors, it then becomes the duty of the superintendent, within ten days after the receipt of the petition, to forward it to the county treasurer, whose duty it then becomes to at once notify the school directors of the amount of money then on hand subject to be withdrawn for school building purposes, and the treasurer shall thereafter honor and pay all warrants drawn by the school directors for such purposes. It *{*217}* would thus appear that, as stated by you in your letter, the county commissioners have nothing whatever to do with the disposal of any surplus funds remaining to the credit of a school district, and if Mr. Fox has caused a petition, which conforms with the requirements of Section 4897, to be placed in the hands of the county superintendent, he should see that such county superintendent forwards the same to the county treasurer.