

**Opinion No. 19-2360**

September 19, 1919

**BY:** HARRY S. BOWMAN, Assistant Attorney General

**TO:** Hon. J. H. Wagner, Supt. of Public Instruction, Santa Fe, New Mexico.

County Board of Education Has Power to Transfer School Funds.

**OPINION**

We have before us a letter from Mrs. Maude L. Blaney, County Superintendent of Schools of Lincoln County, addressed to you, requesting an opinion regarding the right of the county treasurer to transfer from the general maintenance funds of the respective school districts in her county into a rural school fund all moneys in the former named funds, with a request that we advise in regard to the matter.

The history of rural school legislation in this State clearly indicates that it was the intention of the legislature to take from the old district boards and to place in the hands of the County Boards of Education both the administrative and financial handling of the affairs of the county rural schools and nowhere is this more apparent than in the provisions of Sec. 5, Ch. 105, L. 1917, wherein it is stated that "the said board shall have full power and control over all rural schools and districts and the funds thereof, excepting such power as is now conferred upon the State Board of Education and the State Superintendent of Public Instruction. . . . All rural school moneys in the respective county treasuries and all such money credited or to be credited to said schools shall be expended and disbursed upon warrant of the County Board of Education only," etc.

The powers in the handling of the funds of the schools which are here given to the County Board of Education are broad and limited only in those cases where there is any conflict with the powers granted to the State Board of Education or State Superintendent of Public Instruction.

My examination reveals nothing which gives to either the Board or the Superintendent any power over the handling of the school funds of the County, and, in view of the wording of this section wherein the full power and control of the funds of the schools are placed in the hands of the County Board of Education, we are of the opinion that such Board is authorized to make any transfer of the funds that it shall desire so long as the said funds are used for the purposes for which they are intended by law.

We are returning to you herewith the letter from Mrs. Blaney above referred to.