

Opinion No. 36-1291

February 3, 1936

BY: FRANK H. PATTON, Attorney General

TO: Honorable Juan N. Vigil, State Comptroller, Santa Fe, New Mexico.

{*101} We have your letter of January 31st, asking whether or not the law in this state prohibits county and municipal boards of education from carrying group insurance upon the teachers employed by the respective boards of education, and paying for said insurance from the general school funds.

The Supreme Court of this state, in the case of Nohl vs. the Board of Education of the City of Albuquerque, 27 N.M. 232, held that the carrying of such insurance by the municipal board of education of the city of Albuquerque on its teachers was permissible under the statutes then in force. The powers and duties of the county and municipal boards of education was then found in Chapter 105, of the Laws of 1917, and the Court in that case held that the power therein contained:

"to defray all other expenses connected with the proper conduct of the public schools in their respective districts."

was sufficiently broad to enable them to make this expenditure.

The power of the county board of education is now found in Section 5, Chapter 119, of the Laws of 1931. This section is not in the same language as the 1917 law, and {*102} merely gives the county board of education supervision and control of the funds of the respective rural school districts. Section 10 of Chapter 119 of the Laws of 1931, defines the powers and duties of the municipal boards of education and gives them the same power and duties respecting their schools as is possessed by the county boards of education.

We believe that the supervision and control of the funds of the respective districts implies that the respective boards of education should defray all expenses connected with the proper conduct of the schools, and we believe that under the same facts as were before the Court in the Nohl case, above referred to, that the Court would hold that the respective boards of education still have the same power to carry group insurance upon their teachers. We assume, of course, that the item would be budgeted for in advance in the ordinary and proper manner.

We find no statute which, in our judgment, specifically prohibits the carrying of such insurance.

By: J. R. MODRALL,

Asst. Atty. General