

Opinion No. 37-1626

April 30, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. H. R. Rodgers Superintendent of Public Instruction Santa Fe, New Mexico

{*88} This is in answer to your letter of April 29, 1937, wherein you inquire if the State Board of Education or the State Superintendent of Public Instruction have authority to condemn school buildings and forbid the conducting of school in such buildings when they are found to be unsafe.

In some states the Superintendent of Public Instruction is given the power to condemn school buildings under such circumstances. I find no statute in this state giving the Board or the Superintendent that authority.

The local boards being charged by Section 120-804, 1929 Statutes Annotated, as amended by Section 5, Chapter 119, Laws of 1931, with the supervision and control of all school buildings, their attention should be called to the condition of such school buildings.

In the event they refuse to act, it is my opinion that the matter should be called to the attention of the State Board of Public Welfare. They are charged with the inspection of public buildings and have very broad powers for the protection of public health. See Section 3, Chapter 39, Laws of 1937.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.