

## Opinion No. 45-4773

August 22, 1945

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. David W. Carmody District Attorney Santa Fe, New Mexico

{\*119} In your letter dated August 21, 1945, you state that at a meeting of a certain County Board of Education the Board organized and elected a Chairman and Vice-Chairman, and thereupon the minutes show that the Board delegated to the Vice-Chairman all of the powers of the Chairman, except that of presiding at the Board meetings when the Chairman was present, for the reason that the Vice-Chairman lived conveniently near the County seat, and would be in a position to sign school warrants without the necessity of a special trip to the County seat by the Chairman. The minutes also provided that the Vice-Chairman {\*120} should be placed under the same bond as the Chairman. You inquire whether the Board may delegate such powers to the Vice-Chairman.

I am enclosing a copy of Opinion No. 4050, to the effect that there is no statutory manner provided for signing and countersigning school warrants, but that the only requirement is that such warrants or vouchers be issued by order of the Board of Education. Since the Board of Education cannot approve expenditures and order warrants drawn to pay therefor, except when the Board is convened in a meeting, it would not be proper or legal for the Chairman, Vice-Chairman, or any other individual member of a Board, to sign and issue warrants for expenditures not approved by the Board. See *Landers vs. Board of Education of Town of Hot Springs*, 45 N.M. 446.

Section 55-804 of the N.M. 1941 Compilation requires a bond from the Chairman in the sum of \$ 3,000.00, conditioned upon the faithful performance of his duties, and the proper and legal drawing of all school vouchers and warrants, and disbursements of school funds. The Chairman is the only member of the Board, aside from the Superintendent, required by statute to be bonded, and the Chairman is therefore primarily liable for proper disbursement of school funds. If the School Board desires to delegate authority to sign warrants to the Vice-Chairman, in addition to the Chairman, the bond of the Vice-Chairman should probably run to the Chairman, for his protection, because of his primary liability under the law.

At a Board meeting, in the absence of the Chairman, the Vice-Chairman would have all the powers of the Chairman, including the power to sign warrants. Since a Board meeting is a necessary requirement in order to approve expenditures, I fail to see how this delegation of authority to the Vice-Chairman will result in any material benefit to the school system. However, in view of the lack of any statutory prohibition, and under the limitations above set forth, I believe that the delegation of such power to the Vice-Chairman is valid.