

Opinion No. 50-5301

June 2, 1950

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. Luis Encinias County School Superintendent San Miguel County Courthouse
Las Vegas, New Mexico

{*157} Receipt is acknowledged of your letter dated May 15, 1950 requesting an opinion as to whether or not your rural school supervisor, who resigned May 6, 1950, can legally draw a salary for time necessary to wind up her work and also whether or not she is legally entitled to travel reimbursement.

Section 55-807 of the New Mexico 1941 Compilation reads as follows:

"Except with respect to independent and union high school districts, the county board of education shall have supervision and control of all rural schools and districts, and of sites, buildings, equipment and funds of said districts, with the power to employ and discharge all teachers and all school employees of said schools, subject to the limitations herein otherwise provided: provided, that the county board of education may, in its discretion, delegate to the county school superintendent the power to employ and discharge all teachers and school employees.

Said board may employ a rural school supervisor at the expense of the county, which supervisor shall be nominated by the county superintendent of schools and must be approved by the state board of education. Such supervisors must have a minimum of one (1) year actual teaching or supervisory experience in the elementary schools of New Mexico and must have high school graduation and at least a Bachelor of Arts degree or its equivalent from a fully accredited college or university, and at least fifteen (15) hours training in classroom supervision. Such supervisors shall not be a member of the immediate family of the county school superintendent of the county for which such supervisor is appointed nor engage in any political activity and shall not be candidates for any elective office during their term of office of such supervisors. Contracts {*158} involving the expenditure of more than two hundred dollars (\$ 200) shall be in [Illegible Sentences] notice and advertisement of such bids shall have been published once a week for four (4) consecutive weeks in some legal newspaper of general circulation in the county: provided notices and advertisement shall not apply to teachers' salaries. When plans and specifications for the erection of school buildings shall have been changed, altered or revised after advertisement of bids for the construction thereof, the governing boards shall be required to readvertise for new bids, provided that it shall not be necessary to readvertise for bids to cover minor alterations or changes in plans required to correct errors or omissions in the original specifications."

The statute above quoted is mandatory and a county board of education only have power to hire a rural school supervisor by complying with the provisions of this statute.

Since your rural school supervisor has resigned effective May 6, 1950 and is now a candidate for county school superintendent, it would be almost impossible for her not to engage in political activity, due to the closeness of the primary election. Further, the statute prohibits a rural school supervisor, during her term of office as such supervisor, from becoming a candidate for any elective office. True, she has resigned, but she would be carrying on the same work and contacting a lot of school people.

Therefore, it is my opinion that under the provisions of the above quoted statute, your rural school supervisor who resigned May 6, 1950, and is now a candidate for county school superintendent, is not legally entitled to draw a salary for work required to wind up her business as such, nor is she legally entitled to travel reimbursement.