

**Opinion No. 52-5484**

January 31, 1952

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Mr. John B. Wright District Attorney Eighth Judicial District Raton, New Mexico

{\*198} This is in reply to the letter of your assistant, Mr. Darden, of October 24, 1951, requesting an opinion on whether the Taos County Board of Education may employ the wife of one of the members of that Board as a janitor in one of the County schools.

It is my opinion the employment of the spouse of one of the members of the County School Board would be legal and payment of her salary would be valid and not in violation of the Anti-Nepotism Laws of the State of New Mexico.

§ 10-110, N.M.S.A., 1941 Comp., states, in part, and I quote:

"It shall hereafter be unlawful for any person elected or appointed to any public office or position under the laws of this State or by virtue of any ordinance of any municipality thereof, to employ as **clerk, deputy, or assistant** in such office or position, whose compensation is to be paid out of public funds, any person related by consanguinity or affinity within the third degree to the person giving such employment, \* \* \* \*."

Since a janitor would be neither clerk, deputy or assistant to the employing authority, the County School Board, it is my opinion that such employment would not be prohibited by the statute.