

## Opinion No. 53-5772

June 24, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Floyd Santistevan Assistant Superintendent of Public Instruction Santa Fe, New Mexico

{\*172} In your letter dated June 22, 1953, you enclose a copy of a letter from a representative of the Artesia Municipal School Board requesting an opinion on two questions, as follows:

1. Would it be legal to hold a special election to elect new members to the Artesia Municipal School Board?
2. Would it be legal at this time to appoint or elect to the school board, two members from the rural areas, thus constituting a seven (7) member board?

In answer to your first question, §§ 55-905, 1941 Compilation as amended, provides in part as follows:

"On the first Tuesday in February in each odd numbered year, the qualified electors of the district and territories attached thereto for school purposes shall elect at large one (1) or two (2) members of the said Board as the case may be (except as provided in the section next preceding) to succeed those now holding office whose terms expire. Said election shall be called by the municipal board of education and shall be called, conducted, returned and canvassed by said board as in the case of officers in the respective incorporated cities, towns and villages."

This specific statutory provision only authorizes school board members to be elected at the time fixed in the statute and a special election is not authorized for that purpose.

In answer to your second question, § 55-904, 1941 Compilation, provides in part as follows:

"The said board shall be composed of five (5) members, residents of the district, who shall be elected for a term of six (6) years from March 1st succeeding their election."

This language is also clear and unambiguous and does not authorize a school board to consist of any more than five members. Therefore, your second question must be answered in the negative.

{\*173} Trusting that this satisfactorily answers your inquiry, I am

:By C. C. McCulloh

Assist. Attorney General