

Opinion No. 64-88

July 1, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General Thomas A Donnelly, Assistant Attorney General

TO: Mr. Bill Santistevan, Taos County Board of Education, Taos, New Mexico

QUESTION

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May a member of a local school district board enter into a contract with the school district to drive a school bus on behalf of the district?

CONCLUSION

No.

OPINION

ANALYSIS

Section 73-8-15, N.M.S.A., 1953 Compilation, we believe is squarely controlling over the question presented. This section sets out as follows:

"No board of regents of state educational institutions, boards of education, board of school directors, nor any member of any said boards, nor any school official nor teacher either directly or indirectly, shall sell, to any school or state educational institution that they are connected with by reason of being a member of a (1) Board of regents of a state educational institution, (2) board of education, (3) board of school directors, or any school official or teacher, any school books, school furniture, equipment, apparatus or any other kind of school supplies, property insurance or life insurance to any employee of such school or state educational institution, **or do any work under contract, nor shall any such board or members thereof, or school officers or teachers, receive any commission or profit on account thereof, and all such persons are prohibited from being parties directly or indirectly to any such contract or transaction.** Any person violating the provisions of this section shall be fined not exceeding one thousand (\$ 1,000.00) dollars, or imprisoned not exceeding one (1) year in the penitentiary, or be fined and imprisoned as aforesaid in the discretion of the court." (Emphasis added).

As emphasized above, the performance of any work under contract with a school district by a member of local board of education is declared improper and punishable by criminal penalty.

In our opinion, in order for an individual to properly perform work or supply services by contract, and which involve tasks other than those covered under his official capacity or employment, such person must first terminate his official position or employment prior to entering into any such contract.