

## Opinion No. 13-985

February 8, 1913

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Honorable John E. Griffiths, Socorro, New Mexico.

### SCHOOL ELECTIONS.

Elections of Board of Education must be called in same manner as elections of city officers.

### OPINION

{\*150} I have today received your letter of the 6th inst. in which you ask my opinion as to whether it is the duty of the mayor and council, or of the board of education in cities, to call the school election under Chapter 43 of the Laws of 1912. That act contains nothing as to who shall call the election, but it does provide that the election shall be held, the returns made and canvassed and certificates of election issued, in accordance with the laws applicable to elections of officers of incorporated cities, except that no registration shall be required. With this language in the act, and with no specific direction as to who shall call the election, I believe that the election must be called in the same manner as our elections of city officers. I believe that there is no statutory language to be found which states distinctly about the calling of municipal elections, but Section 2446 of the Compiled Laws of 1897 provides that the trustees or council of each municipal corporation shall appoint the election officers and direct the place, or places, for holding the elections, and such action would come very near to calling an election; and Section 2458 authorizes the city council, in case of a vacancy in the office of mayor, to order a special election. It appears to me that the city council is the only authority for ordering, or calling any city election, and I {\*151} am unable to find anywhere any such authority in the board of education. Even as to school bond elections it is, by Section 1585 of the Compiled Laws, made the duty of the mayor to call the election upon the request of the board of education.

You also ask my opinion as to whether or not the present board can legally employ teachers for the next school year and enter into binding contracts with them. I can see no reason why the present board of education should not be considered as having all of the powers of any board and, indeed, there is no dissolution or change of the board by reason of new members being elected. The board continues, although its personnel may be changed. If, in the ordinary course of the administration of school affairs, the time arrives, before the election is held, when it becomes proper or necessary to make contracts for the next school year, I can see no reason why the board should hesitate to act because an election is coming.