

Opinion No. 20-2500

February 26, 1920

BY: N. D. MEYER, Assistant Attorney General

TO: Honorable C. E. Waller, Commissioner of Health, Santa Fe, New Mexico.

Mayor or Board of Trustees of Village Not Empowered to Close Schools During Disease Epidemic.

OPINION

I have your request for advice from this office as to whether or not the mayor of a village has the power to issue a proclamation closing the schools within the village corporation during the prevalence of an epidemic of influenza, and in reply beg to advise:

We find no statutory provision giving the mayor of a village the power to close the schools in his jurisdiction under any circumstances, by a proclamation or otherwise. It would appear that the power to close any of the schools in this state on account of sickness is lodged in the State Department of Health by virtue of Chapter 85 of the Session Laws of 1919.

You also ask if the city council, which in a village is known as the board of trustees, may delegate to the mayor the power to close the schools by proclamation, and in answer to this question we state that we are of the opinion that the board of trustees have not the power to close the schools, and this being the case, it would naturally follow that they cannot delegate a power which they do not possess.

As I understand it, the municipal school board of a city, town or village has exclusive jurisdiction and management over school matters, and that no control can be exercised over said schools except by the said municipal school boards or the State Department of Health.