

Opinion No. 22-3481

June 10, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mrs. Grace Ogden, County Supt. of Schools, Mora, New Mexico.

Illegal Acts of School Directors and Members County Board of Education.

OPINION

{*162} In reply to your letter of the 7th inst., submitting two inquiries regarding alleged illegal acts upon the part of school officials, I wish to advise:

You state that a clerk of one of the school districts has been collecting tuition from pupils who reside outside of the district and has been accounting to the district for only a small part of such collections. You state that you have written him demanding an accounting, but that he has failed to reply and ask if he may be removed from the Board and how you should proceed.

The matter should be submitted to the District Attorney for presentation to the next Grand Jury and a complaint should be filed against the offender in a justice of the peace court for embezzlement of public funds.

The District Attorney should file an information against the clerk at this time asking for his removal from office pending the disposition of the matter before the Grand Jury.

You state that one of the members of your county Board of Education is handling the material for one of your new school buildings and ask if this is not illegal and if so if the member cannot be removed from the Board, and if he can how to proceed.

Section 4917 prescribes that persons identified in an official capacity with the public schools, or with the higher educational institutions, are prohibited from being a party, directly or indirectly, to any contract, or interested in any contract in connection with the operation or maintenance of the schools or educational institutions; that any contract in which they are so interested shall be void and the members of any educational board voting for the same shall be guilty of a misdemeanor and liable to punishment accordingly.

The section above mentioned provides the punishment that may be meted out to those who violate its provisions.

In addition, if a member of a county Board of Education persists in violating the law I am of the opinion that he can be removed from office and that the matter should be handled through the office of the District Attorney.