

Opinion No. 22-3446

May 24, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. Ben H. Ogilvie, Grenville, New Mexico.

Member of School Board May Not Receive Pay as Janitor.

OPINION

{*156} In reply to your letter of the 21st instant, asking if a member of the school board of the district may also serve as janitor of a school in the said district and draw a salary for such services, I wish to advise you:

It has been repeatedly held by my predecessors in this office and by myself that members of school boards and boards of education may not be interested in any contract in connection with the operation or maintenance of a public school in their district and that any contract in which any member of such a board is so interested shall be void and the members of such board voting for the same shall be guilty of a misdemeanor and liable to punishment accordingly.

This holding is based upon the provisions of Section 4917, Code 1915, as amended by Section 32. Chapter 105, Laws 1917.

In order for a person to serve as janitor of a school there must be a contract of hiring either written or oral, between the board and the person so employed. This contract between the board and the person serving as janitor must necessarily, therefore, be in violation of the section of the statute above mentioned and consequently such a contract is absolutely void and members of the board who voted in favor thereof would be subject to the penalty of the act.