

Opinion No. [30-08]

September 11, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: H. G. Payne, Manager, Draughon's Business College, Lubbock, Texas.

CORRESPONDENCE SCHOOLS -- Selling courses without permit.

OPINION

In answer to your inquiry of the 8th inst. in re business colleges collecting tuition in advance, you are advised that § 120-1303, Codification of 1929, is as follows:

"120-1303. Correspondence schools -- Permit to sell courses. It shall be unlawful for any correspondence school, business college or commercial department or any other school, or its agents to canvass prospective students in New Mexico for the purpose of selling to such students, or any one for such students, any scholarship or tuition in advance in such school, or to contract in advance for such scholarship or tuition or to take payment for the same in money, notes or other evidence of indebtedness before the registration in good faith of such student in such school, college, or commercial department, without the school, its agent or representative first making application to the state board of education as hereinafter provided, and receiving from such state board of education a permit granting to the school so applying the right to canvass and sell scholarships and to receive tuition in advance."

By other sections a penalty is provided for the violation of this section; requirements as to the application for a permit are prescribed, and provision is made for the revoking of any permit issued by the State Board at the discretion of the Board, and for any cause satisfactory to it. It is further provided in the act from which these sections are quoted, that nothing in the chapter shall be construed to prevent canvassing for students where no scholarship is sold nor fees for tuition collected in advance, or to prevent the legitimate advertising of any such school.