

Opinion No. 41-3997

January 21, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. T. C. Gallagher Superintendent Tatum Public Schools Tatum, New Mexico

{*147} This will acknowledge receipt of your letter of January 13 wherein you request our opinion as to how a vacancy is filled in a board of school directors of an independent rural school district.

Section 1, Chapter 17 of the Laws of 1937, provides that independent rural school districts shall be "governed by a board of school directors appointed or elected and holding office **as in other rural school districts.**"

Section 120-815, New Mexico Statutes Annotated, 1929 Compilation, provides that vacancies in rural school districts shall be filled "by appointment by the county board of education" until the next succeeding election of school directors.

In view of the clear language of the statutes above quoted, I am of the opinion that a vacancy on the board of school directors of an independent rural school district would be filled by the county board of education of the county within which the rural independent school district is situated.

You further request our opinion as to whether Section 3, Chapter 71 of the Session Laws of 1935, which provides that county commissioners shall call, hold, conduct and canvass all elections of independent school directors, has been amended or repealed. In connection with this question, you are advised that Section 2, Chapter 182 of the Laws of 1939, amended the aforesaid law and now makes it the duty of the county board of education to call, hold, conduct and canvass all such elections.

In closing we wish to advise that it is ordinarily against the policy of this office to render an official opinion to individuals, but in view of the importance of the questions submitted by you, we have, in your case, relinquished our rule. In the future please refer all of your questions relative to school matters to the Superintendent of Public Instruction, Santa Fe.

{*148} A copy of this opinion is being sent to Mrs. Grace J. Corrigan, Superintendent of Public Instruction, Santa Fe.

By HOWARD F. HOUK,

Asst. Atty. General