

**Opinion No. 44-4619**

December 1, 1944

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mrs. Georgia L. Lusk, Superintendent of Public Instruction, Department of Education, Santa Fe, New Mexico. Attention: Mr. Floyd Santistevan

I have your letter of November 13, 1944 wherein you request an opinion concerning whether or not it is legal to hold a school bond election and a board of education election simultaneously next February.

In view of other portions of your letter it appears that your question involves a municipality. It is noted that Section 55-905 of the New Mexico 1941 Compilation provides for the holding of a municipal board of education election on the second Tuesday in February in each odd numbered year, which would be the 13th of February in 1945.

Section 55-721 of the New Mexico 1941 Compilation requires the filing of a petition between January 15 and May 31 inclusive and at no other time in connection with the initiation of the right to issue bonds.

Section 55-722 provides that upon receipt of said petition the official body to which the same shall be addressed shall meet and determine the sufficiency of said petition and in the event of its affirmative finding of the sufficiency thereof it shall order an election for said purpose to be held in said district at a designated time, which shall be not less than thirty nor more than fifty days after such finding.

It is, therefore, noted that after the petition required by Section 55-721 should be filed on January 15, 1945 the earliest possible date for so filing and the resolution required by Section 55-722 be made on the same day that it would still be impossible to hold the election on the 13th of February, the day set for holding the board of education election in view of the thirty day provision above cited in Section 55-722.

By HARRY L. BIGBEE,

Asst. Atty. General