

**Opinion No. 47-5014**

April 28, 1947

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

**TO:** M. Ralph Brown District Attorney Albuquerque, New Mexico

{\*38} We are in receipt of your letter of April 25, in which you ask whether it is legal for a school teacher to sell musical instruments and athletic goods to pupils or to the school at a profit.

Section 1, Chapter 119 of the Laws of 1943, which is compiled in the Supplement to Section 55-715 of the 1941 Compilation, provides as follows:

"No board of regents of state educational institutions, board of education, board of school directors, nor any member of any said boards, nor any school official nor teacher either directly or indirectly, shall sell, to any school or state educational institution that they are connected with by reason of being a member of a (1) board of regents of a state educational institution, (2) Board of education, (3) board of school directors, or any school official or teacher, any school books, school furniture, equipment, apparatus or any other kind of school supplies, property insurance or life insurance to any employee of such school or state educational institution, or do any work under contract, nor shall any such board of members thereof, or school officers or teachers, receive any commission or profit on account thereof, and all such persons are prohibited from being parties directly or indirectly to any such contract or transaction. Any person violating the provisions of this section shall be fined not exceeding one thousand (\$ 1,000.00) dollars, or imprisoned not exceeding one (1) year in the penitentiary, or be fined and imprisoned as aforesaid in the discretion of the court."

You will observe that this section provides that "No \* \* \* teacher either directly or indirectly shall sell to any school \* \* \* that they are connected with by reason of being a \* \* \* teacher, any school \* \* \* equipment, apparatus, or any other kind of school supplies \* \* \*."

In view of this section it is my opinion that a teacher may not legally {\*39} sell any kind of school supplies, including athletic equipment and musical instruments to the school with which they are connected but may legally sell such equipment to pupils.

By ROBT. W. WARD,

Asst. Atty. General