

Opinion No. 50-5318

September 1, 1950

BY: JOE L. MARTINEZ, Attorney General

TO: State Board of Education Santa Fe, New Mexico

{*175} This is to advise you in the matter of the action of the Mora County Board of Education pertaining to the opening of schools on September 18 rather than September 4.

Please be advised that a County Board of Education, under § 55-807, N.M.S.A., has the supervision and control over the public schools in said county. The courts have repeatedly held that the manner of exercising the supervision and control is, except as limited by law, within the discretion of such boards. 24 R.C.L., page 573. See also County Court v. Armstrong, 34 W.Va. 326, 12 S.E. 488.

The only question that could be raised is, has the County Board of Education acted arbitrarily in changing the date from September 4 to September 18 as the opening day of schools in Mora County? Article 12, Sec. 4 of the State Constitution provides that a public school shall be maintained for at least five months in each year in every school district in the state. This provision in the Constitution has been increased to seven months by the Legislature. Therefore, as long as the County Board permits the school in operation in the county for seven months to all students, then it is not acting arbitrarily and it is within the discretion of the board to set the time for the opening and closing of schools, as long as they comply with the above constitutional and statutory provisions.

{*176} It is, therefore, my opinion that the State Board of Education should not interfere with the action of the Mora County Board of Education, since the matter is within their supervision and control.