

Opinion No. 16-1776

April 8, 1916

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. Narciso Francis, Seboyeta, N. M.

Member of legislature eligible to election as school director.

OPINION

{*347} I am in receipt of your letter of the 5th instant in which you ask for the opinion of this office as to whether a member of the legislature of New Mexico is eligible to election as a school director, and can hold that office at the present time.

Article IV, Section 28 of the Constitution provides that "no member of the legislature shall, during the term for which he was elected, be appointed to any civil office in the State."

It is the opinion of this office that there is a difference between the word "appointed" and the word "elected," insofar as they are to be considered in a case like this, and this view is well supported by decisions of different courts in this country and is considered in the case of Territory vs. Armijo, 14 N.M., page 205. It would seem, therefore, that a member of the New Mexico legislature is eligible to hold the office of school director by virtue of an election. It does not appear clear, however, that he would be, under the Constitution, able to hold such an office as school director if he should happen to be appointed to fill a vacancy.