

Opinion No. 21-2841

February 25, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. John V. Conway, Superintendent Public Instruction, Santa Fe, New Mexico.

County Superintendents of Schools May Not Receive Pay for Teaching in Summer Schools.

OPINION

{*28} We have before us letter from Mr. Geo. M. Brinton, Superintendent of Schools of Eddy county, under date of February 15th, addressed to you asking for an opinion from this office relative to the right of county school superintendents to teach in summer schools or institutes during the summer periods while the schools of the county are not in actual session, and to receive compensation for such teaching.

In our opinion the question is to be determined by the construction of section 6, Chapter 12, Laws 1915, known as the County Salary Law. The above mentioned section reads as follows:

"No county officer shall accept or receive to his own use, or for or on account of any deputy or deputies, clerk or clerks appointed by him or employed in his office, of, for, or on account of expenses incurred by him or by any such deputy or deputies, clerk or clerks, or for or on account of his office, any salary, compensation, allowance, fees or emoluments in any form whatsoever, other than by this act allowed."

The question arises as to whether the compensation which a county school superintendent would receive as a result of such services in institutes or summer schools is within the prohibition of this section.

You will note that the act provides that a "county officer" shall not receive "any salary, compensation, allowance, fees or emoluments in any form whatsoever" other than by the act allowed. Of course, this prohibition applies only to moneys or compensation from the public fund, and could not be held to apply to payment for services of a strictly private or personal nature.

{*29} The salaries received by teachers at summer schools and institutes are paid out of public funds and, therefore, in our opinion, the payment of such money to a county school superintendent, who is undoubtedly a county officer, would be prohibited by this section.