

## Opinion No. 24-3760

March 20, 1924

**BY:** MILTON J. HELMICK, Attorney General

**TO:** Requested by: Hon. J. E. Owen, Educational Auditor, Santa Fe, New Mexico.

**Municipal Elections and Elections for School Directors are not General Elections.  
"General Election" Defined.**

### OPINION

{\*133} This inquiry arises upon the following facts: It appears that the issuance of school bonds is to be voted upon in two school districts of the State, which districts have set April 3rd and 4th as the dates of holding the respective bond elections. Attention is called to the fact that Section 703 of Chapter 148, Laws of 1923, provides that no bond election shall be held on or within five days preceding and succeeding "any general election held in said county." Attention is also called to the fact that elections in municipalities for municipal officers are held, under the law, on the first Tuesday in April in each even numbered year, and also that elections for directors of rural school districts are held in each year on the first Tuesday in April. It is asked whether either one of these elections would be considered a general election, and thus invalidate the school bond elections to be held on April 3rd and 4th.

I do not believe that these municipal elections or elections for rural school directors are "general elections held within the county" within the meaning of the statute cited. Indeed the constitution of New Mexico provides, in Article 20 Section 6, that general elections shall be held in the State on the Tuesday after the first Monday in November in each even numbered year, and it may be well argued that there is no "general election" held in the State of New Mexico, other than the November election.

The term "general election" has been before the courts many times for definition, and once before the Supreme Court of New Mexico in the case of Territory v. Ricordati, 18 N.M. 10, 132 Pac. 1139. The tendency of all of the decisions seems to be that only regular elections at which the whole people of the state and county vote for state or county officers, are "general elections." It seems to me that the phrase "general election held in the county" necessarily means a county wide election or an election in which all of the electors of the county participate for the purpose of voting on the same thing, or for the same officers. Measured by this {\*134} test it is obvious that municipal elections and elections in the various school districts are not general elections held in the county.

It is my conclusion that the holding of the said school bond elections on April 3rd and 4th, will not be in violation of Section 703 of Chapter 148 Sessions Laws of 1923.