

Opinion No. [29-95]

August 30, 1929

BY: M. A. OTERO, JR., Attorney General

TO: Mr. W. B. Rector, Tucumcari, New Mexico.

SCHOOLS -- Filling vacancy in board. § 120-902, Code 1929.

OPINION

I have your letter of the 26th inst. in which you ask my opinion as to whether the president of the school board, having resigned from the board, should be succeeded by the vice-president thereof, or have a majority of the members, after filling the vacancy on the board, a right to fill the office of president by appointment of a person other than the vice-president.

In reply thereto will state that the last part of section 902 of the School Code provides for the filling of a vacancy in the board by a majority vote of the members of the board.

Section 905 of the School code says that from among its members the board shall elect a president, vice president and clerk. There seems to be no provision in the law which promotes the vice-president to the office of president in any event. Therefore, if the president resigns or dies there is a vacancy in the office of the president, the vice-president to act until that vacancy is filled, but he would act as vice-president and not as president. It is consequently up to the board to decide this matter.