

## Opinion No. 36-1479

December 7, 1936

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. H. R. Rodgers Superintendent of Public Instruction Santa Fe, New Mexico

{\*36} We have your letter of December 3rd enclosing copy of letter from Agnes Bartlett, Superintendent of Schools, Gallup. Miss Bartlett brings up the question of whether or not it is legal for the school board to permit the use of the public school gymnasium for dramatic purposes, musical recitals, etc., under the auspices of the parochial school. She refers to an opinion written by Attorney General E. K. Neumann under date of January 28, 1931, to the Superintendent of Public Instruction. In this opinion Mr. Neumann refers {\*37} to the provision in our State Constitution which provides, among other things, that no funds appropriated levied or collected for educational purposes shall be used for the support of any sectarian, denominational, or private school, college, or university. (Section 3, Article 12, New Mexico Constitution).

She states that the cost of fuel, lights, water and janitor service for such purposes will amount to about \$ 144.00 and is of the opinion that the expenditure of such sum for the purposes stated would be in violation of the constitutional provisions above referred to.

I do not know to what extent the parochial school authorities would control such entertainments and athletic activities. Certainly a public school fund should not be used to contribute in any manner to the support of a parochial school. However, in an opinion written by Attorney General Patton, No. 1010, he held that it was not illegal for a school board to permit parochial students to attend manual training classes in the city schools.

I think it would be perfectly proper for the school board to permit students from parochial schools to use a gymnasium or other school facilities if such use does not interfere with the regular school activities. However, I do not think they should permit the parochial school authorities to use public school property and funds for the support of activities of the parochial school.

The line of distinction seems rather fine, but the point I am trying to make is this: that the school board may permit the use of school facilities by members of the general public for entertainment and other like purposes without violating the constitutional provision above mentioned, but they may not permit the parochial school authorities to use the public school facilities for purposes strictly connected with the operation of the parochial school.

Trusting that this will answer Miss Bartlett's question, I am,

By: QUINCY D. ADAMS,

Asst. Atty. Gen.