

Opinion No. 39-3082

April 1, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Honorable John E. Miles, Governor of New Mexico, Santa Fe, New Mexico.

{*31} In your letter of March 30 you state that you have received a letter from a member of the House of Representatives of the Fourteenth Legislature stating that he is at present employed as a teacher in a high school. He has inquired whether or not his employment is in violation of the Constitution, and you request an opinion from this office on the matter:

Employment as a teacher in a high school does not, in my opinion, constitute an appointment to a "civil office" within the inhibition found in Section 28 of Article IV of the Constitution. *State ex rel Gibson vs. Fernandez*, 40 N.M. 288. Furthermore, see the case of *State ex rel Baca vs. Otero*, 33 N.M. 310, where the Supreme Court held that where the authority to employ a rural school supervisor is derived from an act passed when the employee was not a member of such Legislature, there is no constitutional objection to such legislator accepting such employment.

I believe the fact situation outlined in your letter falls within the two foregoing Supreme Court decisions, and it is my opinion that the employment of the teacher involved is not in violation of our Constitution.

By: FRED J. FEDERICI,

Asst. Atty. Gen.