

**Opinion No. 43-4298**

May 22, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Honorable R. F. Apodaca, Superintendent of Insurance, State Corporation Commission, Santa Fe, New Mexico

We have your letter of May 20, 1943, in which you inquire whether or not Section 55-715 of the New Mexico 1941 Compilation prohibits the issuing of an insurance license to a person who comes within the following classification: "Member of a Board of Regents of any educational institution, Board of Education, Board of School Directors, any member of said boards, or any school official or teacher."

This matter has been previously passed on in several different opinions of this office, copies of which are inclosed herewith, and may be found in "Opinions of the Attorney General" 1929-30, page 207; 1931-32, page 31; and an opinion dated July 13, 1935, given by Frank H. Patton, Attorney General.

In view of these opinions it seems clear that a license may be given. I, however, call your attention to the fact that the 16th Legislature amended Section 55-715, whereby from the effective date of the above mentioned amendment it will be clear, irrespective of the present ambiguous wording of the section, that any such school official may be licensed by an insurance agent in the State of New Mexico without incurring the possibility of rendering contracts void, or of incurring a criminal penalty, unless such school official writes insurance to a school or state institution, which he is prohibited from writing.

In view of the questions which had been raised concerning the accuracy of the above mentioned opinions, it is my opinion that the Legislature merely wished to remove a question as to possible interpretations which could be placed on Sec. 55-715 of the New Mexico 1941 Compilation by unequivocally stating the legislative intent of such section and the evil which was intended to be removed. Therefore, even though this amendment has not yet become effective, I feel bound, by the fact that the Legislature did pass such an amendment, to construe the present section in the same manner as it has been construed for the past fourteen years.

It is my further opinion, however, that whenever you issue a license to any person who comes within the above classification you should, at such time, inform such person of the provisions of the above mentioned amendment so that such person will not interpret the giving of the license as legal permission to write insurance prohibited by the laws of the State of New Mexico.

Hoping that the above fully answers your questions, I remain

By HARRY L. BIGBEE,

Asst. Atty General