

Opinion No. 44-4548

July 21, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. R. L. Ormsbee, State Purchasing Agent, Santa Fe, New Mexico

In your letter dated July 12, 1944, you refer to Sec. 55-715 of the 1941 Compilation Accumulative Pocket Supplement, and inquire whether or not a member of a board of regents of a state educational institution can legally act as an insurance agent in writing insurance covering the property of the institution with which he is connected.

Under this act, before amendment in 1943, a member of such board was prohibited from acting as agent for any person, firm or corporation engaged in selling school books, school furniture, equipment, apparatus or any other kind of school supplies, property or life insurance. It is assumed that the words "property or life insurance" refer to property or life insurance sold to the school or institution. The law, as amended in Sec. 1, Chapter 119, Laws of 1943 provides as follows:

"No board of regents of State educational institutions, boards of education, board of school directors, nor any member of any said boards, nor any school official nor teacher either directly or indirectly, shall sell, to any school or State educational institution that they are connected with by reason of being a member of a (1) board of regents of a state educational institution (2) board of education, (3) board of school directors, or any school official or teacher, any school books, school furniture, equipment, apparatus or any other kind of school supplies, property insurance or life insurance to any employee of such school or State Educational institution, or do any work under contract, nor shall any such board or members thereof, or school officers or teachers, receive any commission or profit on account thereof. and all such persons are prohibited from being parties directly or indirectly to any such contract or transaction. Any person violating the provisions of this section shall be fined not exceeding one thousand (\$ 1,000.00) dollars, or imprisoned not exceeding one (1) year in the penitentiary, or be fined and imprisoned as aforesaid in the discretion of the court."

In view of the fact that the words "to any employee of such school or state educational institution" were added to the words "property insurance or life insurance", apparently the Legislature intended to take away the prohibition against a board member selling property insurance or life insurance to the school or institution and merely prohibit such board member from selling such insurance to the employees of such school or institution. This view of the matter is strengthened when it is considered that no doubt the Legislature had in contemplation the fact that insurance contracts for state educational institutions are to be handled by the State Purchasing Agent.

It is, therefore, my opinion that a member of a board of regents of a state educational institution can legally act as an insurance agent in writing insurance covering the property of the institution with which he is connected.