

Opinion No. 46-4907

June 13, 1946

BY: C. C. McCULLOH, Attorney General

TO: Alda E. Joiner State Labor Commissioner Santa Fe, New Mexico

{*234} Your letter of June 11, 1946, requesting an opinion with reference to Section 56-516 of the New Mexico 1941 Compilation, has been received. The aforementioned section provides in part that:

"Any employer who makes or enforces or attempts to enforce any order, rule or regulation, or who adopts any other device or method to prevent an employee from engaging in political activities, excepting candidacy for nomination to or the holding of political office * * * shall be punished by a fine or imprisonment or both."

From the facts as stated in your letter, it appears that an employee was granted a 30-day leave of absence to make the race for public office, with the understanding with his employer that he would be given an extension of leave to finish the political campaign; that the company, after making this promise, {*235} refused to grant the extended leave upon request on the ground that it would be inconsistent with their policy to do so.

Without touching on the right of the company to refuse leave at the outset, it is my opinion that if it can be shown that the extension of leave was denied due to the fact the party was engaged in political activity, then there was a violation of the above mentioned section, as such would seem to constitute a method or device preventing an employee from engaging in political activity; otherwise, there was no violation. Trusting this answers your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General