

OPINION
50-148

July 12, 1950 (OPINION)

SCHOOLS

RE: Attendance at Educational Association Meetings

This is in reply to your letter of July 10 addressed to the Attorney General.

You ask for an interpretation by this office of the word "authorized" as used in the statute quoted in your letter. The statute reads as follows:

"The board of education in special or independent districts, or the school board in any common school district is hereby authorized to allow the superintendent, principal or teachers of the schools under its charge, to attend, without loss of salary, any meeting of the North Dakota or other educational association which may be held within this state while the schools of such district are in session."

Webster's New International Dictionary defines the word "authorized" as follows: 1. To clothe with authority or legal power; to give a right to act; to commission; as an authorized representative. 2. To make legal; to legalize. To give authoritative permission to or for; to empower; warrant.

Words and phrases citing court decisions holds that statutes which authorize a public officer to do a certain thing imposes upon him a positive and absolute duty to do such act, which may be enforced by those for whose benefit it is to be done, in the absence of words giving him a discretion. Chase v. United States, C.C.A. Neb. 261 F. 833,837. Where a public officer or body is clothed with authority and power in permissive form to perform an act in which the interests of the public are concerned, the permissive language used will be construed as mandatory. Catron v. Marron, 142 P. 380, 19 N.M. 200.

There are other cases holding the contrary view. However, in view of the fact that it would be to the best interest of the public and the school system of the state that teachers attend educational association meetings, I would be inclined to hold that the word "authorized" as used in the statute referred to should be construed as mandatory and that it would be the duty of the school board to permit a teacher to attend the meetings referred to without loss of pay.

WALLACE E. WARNER

Attorney General