

Opinion No. 12-965

December 12, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Dr. Frank H. H. Roberts, President, N. M. Normal University, Las Vegas, New Mexico.

NORMAL UNIVERSITY OF LAS VEGAS.

May charge third grade teachers with tuition fee for attendance on summer schools.

OPINION

{*120} I have received your letter of the 10th inst. which presents a question, and perhaps involves more than one question, which is not {*121} easy of solution. In substance, what you ask is as to whether the Normal University has a right to charge third grade teachers a tuition fee for instruction received at the summer school when attendance on that school is made a substitute for attendance upon a county institute.

The provisions of Section 8 of Chapter 97 of the Laws of 1907, are intended to cover the subject of the compulsory attendance of teachers upon county institutes, or some summer school approved by the Superintendent of Public Instruction. All persons who expect to teach school must attend at least two weeks on county institute, or show a certificate of attendance upon some county institute or summer school approved by the Superintendent of Public Instruction, but teachers of third grade who have taught at least three months during the year previous to the time of holding any county institute, may receive \$ 15.00 from the public treasury if they have attended a county institute for a full term of four weeks, and they are also exempt from the institute fees otherwise required. Institute fees are, by the statute, to be not less than \$ 1.00 and not more than \$ 3.00.

It is to be noted that there is no direct provision that third grade teachers may attend a summer school instead of a county institute. The general provision making it compulsory upon all persons who expect to teach to attend a county institute or summer school, does not appear to be applicable to the third grade teachers, as it speaks of only two weeks attendance being the minimum required at a county institute. The last clause of the section, however, provides that the territorial, now state, Board of Education may waive the holding of a county institute in counties where authorized summer schools are held and in counties adjacent thereto. This might be held to imply that in such counties the authorized summer school is a substitute as far as teachers' compulsory attendance is concerned for the county institute.

There is nothing, however, which requires any third grade teacher to attend any summer school, even in those counties where the county institutes have been waived.

Such a teacher may attend any county institute and meet the requirement of the law, such attendance being for the term of four weeks. If such a teacher prefers to attend the summer school, it seems to be within the power of the authorities holding the summer school to make the same charge for tuition which is made to any other students. The third grade teachers can avoid the payment of any tuition fee by attending a county institute, and the exemption made by the statute is not from the payment of tuition fees at a summer school, but from the payment of institute fees. Moreover, this grade of teachers must attend the full term of four weeks upon a county institute, while the summer schools, as I understand, are held for much longer terms, and I find nothing in the statute to indicate that an attendance for four weeks at a summer school can be taken as a substitute for the four week attendance at a county institute.

I am of opinion that there is no violation of the law, with regard to the third grade teachers, in your charging such teachers the same {^{*}122} tuition fee for attendance on the summer school as is charged to other persons.