

Opinion No. 13-1109

September 25, 1913

BY: FRANK W. CLANCY, Attorney General

TO: George Tindall, Secretary-Treasurer, New Mexico Reform School. Springer, N. M.

REFORM SCHOOL.

Superintendent of Reform School is an employe and is not disqualified by being a resident of another state.

OPINION

{*285} I have today received your letter of the 23rd inst. in which you ask, in substance, my opinion as to the eligibility of a man living in Colorado for the position of superintendent of your school, objection having been made that his employment would be a violation of the constitution because he has not resided one year in the state.

You say that you had thought that the constitutional provision, which is to be found in Section 2 of Article VII, applies to elective officers only and not to officers appointed to boards like yours. I have heretofore officially expressed the opinion that the section referred to applies to elective officers only, but I think that it has nothing whatever to do with the qualification of employes, such as your superintendent would be. He is not a public officer within the meaning of the constitution and the statutes. On this point I have had occasion to make careful examination with reference to the president of the faculty of one of our educational institutions, and found that he was to be considered not an officer of the state but as an employe. In this connection, I call your attention to the fact that, since the organization of the state government, the University has employed a president who was not a resident of the state at the time, and I am informed that the Agricultural College has just selected a president who has not been a resident of New Mexico.

I have no doubt that your suitable man, whom you have found in Colorado, can be lawfully employed and hold the position as long as your board will keep him.