

## Opinion No. 14-1307

August 29, 1914

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. H. L. Beagle, Magdalena, New Mexico.

### **SCHOOLS.**

Apportionment of county high school funds between Socorro and Magdalena in Socorro county.

### **OPINION**

{\*163} I have received your letter of yesterday relative to the question of which you spoke to me some days ago as to whether the newly established Magdalena high school is entitled to any part of the high school fund now in the treasury which you say is claimed by the Socorro high school board because collected for the use of that school from the taxes of 1913. You further say that you cannot see why, if both schools were established in the same fiscal year, you should not be entitled to some of that money for your school, nor why the calendar year should be applied for the collection of school funds and the fiscal year for the distribution of the same.

I do not understand that the schools could have been established in the same fiscal year, although there is some confusion in our statutes about fiscal years. The state fiscal year begins on the first of December and ends on the 30th of the following November, but by Section 304 of the Compiled Laws of 1897, which was originally a part of what is called the Bateman Act, adopted in 1897, for the purposes of that act it is declared that the "current year" for schools shall begin on the first day of September and end on the last day of August of the next year. I understand that the Socorro school was established by an election in August, 1913, and your school in February, 1914, so that whether we refer the matter to the state fiscal year or to the school current year, they were established in different years, and the calendar year would not seem to have anything to do with it.

Taxes levied in 1913 are undoubtedly for the expenses of the fiscal year beginning on the first of December last, but under Section {\*164} 305 of the Compiled Laws it would seem that the school funds collected under those levies would be for the current school year beginning September 1, 1914.

The foregoing is, I think, unimportant to the answering of your question, as it seems that Chapter 20 of the Laws of 1913 makes provision for apportionment of money to a new high school when an additional one is established. It provides that apportionment of money generally shall be in the ratio shown by the number of children attending the high schools during the preceding year, but it is obvious that if this rule were literally applied

there would be no provision for money for any additional school which might be established. Such a case is covered by a proviso in the act which is incorrectly printed in the published laws, and actually reads as follows:

"Provided, further, that when an additional high school shall be established it shall receive, during the first school year, not to exceed one-third of the moneys then in the county high school fund."

There is another proviso immediately following this one which is inconsistent with it, but I am of opinion that the language above quoted authorizes and directs the treasurer to make provision for a newly established high school, with a limit that such provision shall not exceed one-third of the moneys in the county high school fund.

Section one of the act, however, amends Section seven of Chapter 57 of the Act of 1912, so as to require the county treasurer, when he has collected the tax, to place the same to the credit of the district where any such county high school is situate. When the November tax collections, approximately one-half of the whole for the year, were made last year, there was but one county high school in your county, and that money should go to the credit of Socorro. The high school tax collected after your school was established in February, is, however, subject to the proviso about an additional high school, and your school would be entitled to a share of it, not exceeding one-third.

I will not send this letter until I have submitted it to the Superintendent of Public Instruction, as he is by statute the proper adviser of all school officers as to school matters.