

Opinion No. 15-1417

January 9, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. N. C. Frenger, President, City Board of Education, Las Cruces, New Mexico.

As to election of members of boards of education.

OPINION

{*13} I have today received your letter of the 7th instant asking as to the proper construction of Section 2 of Chapter 67 of the Laws of 1913, which provides that the qualified electors of each incorporated town or village shall, on the first Tuesday of April, 1913, elect five members of the board of education, two of whom shall hold office for a term of two years and three shall hold office for a term of four years, and thereafter a regular election for members succeeding those whose terms expire, shall be held on the first Tuesday of April of each odd numbered year. You say that the next election is approaching to fill the vacancies caused by terms expiring of two members of your board who were elected for a two-year term in 1913, and that the query is as to whether the two to be elected in April are to be elected for a two or for a four-year term.

I have been under the impression that Las Cruces was a city and not a town or village, and unless it is a town or village that statute has no application to it. If you are a city, however, Chapter 43 of the Laws of 1912 provides for the election of members of your board of education, and the language in Section 2 of that chapter is substantially the same as Chapter 67.

My conjecture is that the legislative intention was not to have all of the members of the board of education elected at any one time after the election in 1913, but I fear that that intention is not clearly expressed in the act. In order to give effect to that conjectured intention it would be necessary to elect two members in the approaching April for a term of four years. If they were elected for two years their terms of office would expire at the same time as the terms of office of the three others, and there would be five vacancies to fill at the election in 1917.

We ought to have additional legislation to make this clear, but if we do not get any, my opinion is that you should elect two members in April to hold office for four years and in 1917 there should be elected three members to hold office for four years from that time.