

Opinion No. 15-1437

February 2, 1915

BY: H. S. CLANCY, Assistant Attorney General

TO: Honorable Alvan N. White, Superintendent of Public Instruction, Santa Fe, New Mexico.

As to whether the holder of a first grade teacher's certificate, upon application for a renewal, must pass an examination in history and civics.

OPINION

{*26} I am just in receipt of your letter of even date in which you say that the State Board of Education now in session has passed the following resolution:

"That the Board ask the Attorney General for an opinion on the question whether the law requiring the presentation of credits or the taking of an examination in History and Civics of New Mexico applies to the renewal of certificates."

{*27} You further state that the Board now proposes to pass a resolution substantially as follows:

"No renewals of County First Grade Certificates shall be made hereafter by the Department without said teacher asking for the renewal presenting credit by examination or otherwise in the subject of History and Civics of New Mexico and one of the industrial branches."

You ask for the opinion of this office as to whether the Board has a legal right to require of a teacher, who is the holder of a first grade certificate and is making application for a renewal thereof, an examination upon the subject of history and civics of the United States, as well as the history and civics of the State of New Mexico, before such renewal can be made by the county and state superintendents.

Section 3 of Chapter 97 of the Session Laws of 1907 provides for the granting of first grade county teachers' certificates by the State Board of Education, good for the period of three years, provided that such certificate may be renewed by a county superintendent with the consent of the state superintendent. Section 1 of Chapter 41 of the Laws of 1912 provides that a first grade certificate shall not be granted by the State Board unless the teacher shall have passed a satisfactory examination in history and civics of the United States as well as history and civics of the State of New Mexico. It is the opinion of this office that it was clearly the legislative intent to make this examination compulsory upon persons who have applied for the granting of first grade certificates for the first time, and has no application whatever to a person who is the holder of a first grade certificate under the provisions of the act of 1907, nor can it be said that the State

Board of Education has any jurisdiction whatever in the matter of granting the renewal referred to in that act. The question of such renewal is clearly in the hands of the county and state superintendents, and should the state board pass the proposed resolution, I cannot see how it would be binding upon either a county superintendent or upon the state superintendent.