

**Opinion No. 15-1488**

March 31, 1915

**BY:** H. S. CLANCY, Assistant Attorney General

**TO:** F. Faircloth, Esq., Attorney at Law, Santa Rosa, New Mexico.

**As to the change of boundary lines of school districts.**

**OPINION**

{\*69} Your letter of the 23rd instant, quoting one addressed to this office on February 22, has been received. The delay in answering has been occasioned by the fact that this writer was confined to his bed for nearly three weeks during which time your letter of February 22 remained on his desk and was overlooked.

Assuming that your statement of the facts in regard to the action of your county school superintendent in regard to the change of boundary lines of a school district, is true, I believe that the position taken by him is a mistaken one. It appears from your letter that the territory sought to be taken from district No. 7 is uninhabited, {\*70} and therefore, the petition required by law cannot be obtained. Your letter was referred to the State Superintendent of Public Instruction, who takes the same position that this office does, and states in a communication addressed to us that:

"Under Section 25, Chapter 97, Laws of 1907, it is provided that any change of boundary lines may be made by the county superintendent but only upon petition of a majority of the qualified voters in the various territories affected. If there are no residents in those portions of districts 7 and 26 which are to be attached to district 28, I am unable to see how the county superintendent can arbitrarily change the boundary lines of the districts referred to, if the facts are as stated in Mr. Faircloth's communication."

The State Superintendent's office informs me that it will communicate with your county superintendent upon this subject, and it may be that he can be shown the error into which he has apparently fallen.