

Opinion No. 15-1668

November 2, 1915

BY: FRANK W. CLANCY, Attorney General

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

Pupils to be counted for purpose of apportionment of high school fund.

OPINION

{*241} I have just received your letter of yesterday asking as to the qualification of a pupil to count in the apportionment of funds where there are two county high schools located in the same county, and also whether the superintendent of the district in which the high school is located has authority to hold examinations and promote to the high school pupils who have finished the eighth grade, and further if the pupils so promoted can be counted in the apportionment of the county high school fund provided that they attend the high school more than half the school year.

{*242} By Section 2 of Chapter 20 of the Laws of 1913, which is Section 4969 in the new codification, it clearly appears that the pupils who are to be counted for the purpose of apportionment of the high school fund, must be those attending the high school for not less than half of the regular sessions of the preceding school year. It follows, therefore, that new students taken into the high school cannot be so counted until the next year after their entrance into the school, and after their having attended not less than one-half of the regular sessions.

As to the qualifications of pupils for admission to the high school, there appears to be no rule laid down by the statutes and in the absence of any such legislation, some one in authority over the high school must determine that question. Section 4 of Chapter 57 of the Laws of 1912, which is Section 4966 of the codification, declares that the management and government of each of said high schools shall be under the control of the board of education or school directors of the city or district where the school is established and maintained. If the school directors of a district where there is a high school, and which has not been incorporated as a city, employ a superintendent, it would seem to be an ordinary and proper thing for him to take charge of ascertainment of the qualifications of applying pupils, by examinations if he should see fit to hold such examinations, but this might, to some extent at least, depend upon the scope of the authority given to him under his employment by the school directors, as the school directors appear to be the controlling authority.