

Opinion No. 16-1896

November 4, 1916

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. W. E. Carroon, Chief Clerk, Department of Education, Santa Fe, New Mexico.

School directors may admit non-resident pupils to their school upon payment of a tuition fee.

OPINION

{*440} I am just in receipt of your letter of even date enclosing one addressed to your office by Mr. R. O. Edgell, a member of the school board of McAllister, New Mexico, in regard to school matters, and as to which you ask for the opinion of this office.

The difficulty in this school district seems to have arisen over the fact that several families who do not reside in the school district of which Mr. Edgell is a director, but who pay school taxes in his district, insist upon sending their children to his school, rather than to the school in the district where they reside. The law of New Mexico upon this subject seems to be quite clear. Sec. 4847 of the Codification of 1915 provides that pupils who are actual residents of a district shall be permitted to attend school in the same, regardless of the time when they acquire such residence, while Sec. 4859 provides that school directors may admit non-resident pupils to the school under their charge, provided accommodations are sufficient to justify the same, charging a sum to be determined for tuition, and the same section also provides that when the parents of non-resident pupils pay a school tax in any district, such pupils shall be admitted to the school, and the amount of the school tax shall be credited on their tuition, but if, as stated in Mr. Edgell's letter, there are no accommodations for such non-resident pupils, his board is most certainly authorized to refuse to accept them. School directors are empowered by Sec. 4855 to undertake the general control and management of the schools in their respective districts, and as before stated, if non-resident pupils cannot be accommodated, it is entirely within the power of the school directors to refuse them admission to the school.

I return herewith the letter of Mr. Edgell.