

## **Opinion No. 17-1983**

April 25, 1917

**BY:** MILTON J. HELMICK, Assistant Attorney General

**TO:** Hon. Robert P. Ervien, State Land Commissioner, Santa Fe, New Mexico.

Lands Granted by Congress for Normal School Purposes Are Not to be Segregated to the Various Institutions.

Spanish-American Normal School Does Not Share In the Congressional Grant of June 21, 1898.

### **OPINION**

We have your recent favor, wherein you ask if the Spanish-American Normal School at El Rito is entitled to share in the grant of 100,000 acres contained in Section 6 of the Act of Congress approved June 21, 1898, for the establishment of normal schools. You also ask whether it was the intention of Congress, in making grants of land to normal schools, amounting in all to 300,000 acres, that certain specified land should be segregated for each institution, or whether the lands should be kept in one compact body for the use of all normal schools jointly, and the money derived from such lands be divided pro rata among the several institutions, the share of each to be computed on the basis of the number of acres granted to the State for normal school purposes at the time the schools were established.

As stated in your letter, the following provisions govern the questions you ask:

The Act of Congress, approved June 21, 1898, making certain grants of land to the Territory of New Mexico, in Sec. 6, granted 100,000 acres for the establishment of Normal Schools.

The Act of Congress, approved June 20, 1910, "to enable the people of New Mexico to form a constitution," etc., in Sec. 7 granted 200,000 acres for Normal Schools.

The Territorial Legislature of 1909, by Act approved March 18, 1909, established the Spanish-American Normal School at El Rito.

Under Sec. 12 of Article XII of the Constitution, the New Mexico Normal University at Las Vegas, the New Mexico Normal School at Silver City, the Spanish-American Normal School at El Rito, among other institutions, are confirmed as state educational institutions.

Under Sec. 12 of Article XII of the Constitution, it is provided that 170,000 acres of the land granted by said Act for normal school purposes, "are hereby equally apportioned

between said three normal institutions, and the remaining 30,000 acres thereof is reserved for a normal school, which shall be established by the legislature and located in one of the counties of Union, Quay, Curry, Roosevelt, Chaves or Eddy.

In our opinion, the Spanish-American Normal School at El Rito is not entitled to any share in the first grant of 100,000 acres, and I think the policy of your office in so holding is correct, as such school was not established at the time of the original grant, and we think it was the intention of Congress that the hundred thousand acres should go wholly to the two normal institutions in existence at the time of the grant. We think it quite likely that the two schools which were then in existence have a vested right to the benefit of the entire grant.

It is our opinion, also, in answer to your second question, that the lands granted for normal school purposes should not be segregated, but that the various institutions should share pro rata in the income from such lands, such pro rata share to be determined on the basis of the number of acres granted for normal school purposes at the time each institution was established.

As you state in your letter, it would be a difficult matter to attempt to segregate lands to each institution, and much injustice might result from such a course, as lands set aside for one institution might be much more valuable than the same amount which might be set aside for another institution.

In other words, the policy your office has followed in the past in the two matters you ask about has been correct, in our opinion.