

Opinion No. 21-3156

October 14, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. John V. Conway, Superintendent of Public Instruction, Santa Fe, New Mexico.

Enforcement of Law Requiring School Attendance.

OPINION

{*91} In compliance with your oral request for an opinion involving the application of section 7, Chapter 69, Laws 1919, being a part of the education law, I wish to advise you as follows:

The first part of the section mentioned provides for a penalty for failure of parents or guardians to have children under their control in school during the regular school session.

In addition to the foregoing penalties, the latter part of the section authorizes a suit in mandamus at the expense and in the name of the county or municipal boards of education or county or city superintendents of schools to compel such parents or guardians to place such children in school at once. The latter part of the section mentioned grants a quick and effective method to compel the attendance of pupils of school age in schools and thus obviate the objection to the act as it primarily existed which did not have the effect mentioned.

Under the law as it previously existed a suit might be dragged out in court for years before a conviction could be obtained and in the meantime the pupils would not be in attendance at any school. Under the present law this objection is removed so that immediate attendance can be compelled.

The action in mandamus could be brought by the District Attorney of the district in which the county is situate and the school authorities mentioned in section 7 should call to the attention of the District Attorney any cases of violation of the act so that immediate {*92} steps can be taken by the District Attorney to enforce attendance by a writ of mandamus as provided for in the act.