

Opinion No. 23-3682

March 7, 1923

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Miss Isabel Eckles, Superintendent of Public Instruction, Santa Fe, New Mexico.

Any School District may Charge Tuition on Pupils Coming From any Foreign District.

OPINION

{*26} The query submitted is: "The directors of San Juan School are charging tuition for pupils living out of the district, and as it is not a municipal district, but only a consolidated school I contend they are not authorized to do so, under the County Unit System. * * * Will you please let us have an answer immediately as it is very important for us to have this matter settled at once." (The foregoing quotation is taken from a letter addressed to you by the Superintendent of Schools of Quay County).

From the foregoing quotation I conclude that the district in question is a consolidated district. If two or more districts have been consolidated as provided by section 4840, New Mexico Statutes, Annotated, Codification 1915, to all intents and purposes, it is neither more nor less than one district. Section 4847 of said Code provides that "pupils who are actual residents of the district shall be permitted to attend school in the same * * *"

In this instance, the directors have no discretion as to whether they may or may not admit such pupils, and, of course, such directors may not require tuition.

Under section 4859 of said Code, the Directors may exercise their discretion in admitting non-resident pupils and may charge tuition as provided in said section.

If the district in question is in reality a "consolidated district," no tuition may be required or collected for pupils within such district, but pupils coming from any outside district may be required to pay tuition under said section 4859.