

**Opinion No. 31-261**

September 3, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Mrs. Georgia L. Lusk, Supt. of Public Instruction, Santa Fe, New Mexico.

{\*102} Your letter of September 2nd makes the following query:

"Do school boards have authority to refuse admission of children to the first grade throughout the entire school year if they are not six years of age at the opening of the school year?"

Section 120-1203 of the 1929 Code is as follows in part:

"Children between the ages of six and sixteen, both inclusive, shall attend public schools of the state for as many weeks as the public schools in the district, in which such children reside, shall be in session."

It is apparent from the reading of such section, that children must be at least six years of age and not over sixteen years of age before they can be compelled to go to school under the compulsory attendance statute, and it is also apparent that children over the age or under that age may or may not go to school in the discretion of the local governing boards of the school statute. If the conditions do not warrant local boards with accepting children before they are six years of age it is probably within their discretion to refuse to do so.