

Opinion No. 36-1310

February 19, 1936

BY: FRANK H. PATTON, Attorney General

TO: Mr. H. R. Rodgers, Superintendent of Public Instruction, Santa Fe, New Mexico.

{*104} We have your letter of February 17th in which you ask our opinion on the following questions:

"1. Can married people under {*105} the compulsory school age be compelled to attend school?

2. Can married women under twenty-one years of age be excluded from school?"

Section 120-1203, 1929 Compilation provides for the compulsory attendance at public schools of children between the ages of six and sixteen years, both inclusive. There are certain exceptions made but I find nothing in the law excepting children within the ages above mentioned who happened to be married. Consequently, I think the first question above stated should be answered in the affirmative.

I find nothing in the law which provides that children may be excluded from school because they are married. However, it was stated in an opinion written by this office on September 3rd 1931, Opinion No. 261, that children over the age of sixteen years may or may not be permitted to attend school, in the discretion of the local governing board. It would seem, therefore, that children over the age of sixteen years may, in the discretion of the school board, be excluded from school on account of their age.

It is quite likely that since the admission of children over the age of sixteen years is within the discretion of the school board the school board could also determine whether or not children over that age who are married should be permitted to attend school.

By: QUINCY D. ADAMS,

Asst. Atty. General