

## Opinion No. 14-1204

April 25, 1914

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Dr. B. E. Hedding, Mountainair, New Mexico.

### **SCHOOLS.**

Procedure at election for establishment of county high school.

### **OPINION**

{\*65} I have just received your letter of the 24th inst., in which you ask my opinion on two questions with regard to the law governing the establishment of high schools, for which you say there are now three petitions before the board of county commissioners for three different places.

You ask, first, if there may be more than one county high school established the first year, or the same year, in Torrance County. Under the high school act, which appears as Chapter 57 of the Laws of 1912, only one county high school could be established in any county of the state during any one year, but this was amended by the legislature in 1913, the amendment appearing as Chapter 20 of the laws of that year, so that more than one high school might be established and designated as a county high school in any year.

The gentlemen who you say expressed the opinion that there could be but one high school established in any one year must have examined the act of 1912 and have never seen the amendment adopted in 1913.

Your other question is, if more than one county high school can be established in one year, what constitutes an election, -- that is, {\*66} does it require a majority of all the votes cast in the event the three petitions are voted on the same day, or does it require simply a majority of the "yes" or "no" votes on any one petition. Under the provisions of the act of 1912, I believe that there must be a separate election on each petition, although, as a saving of expense it might be possible to have all three elections in one day and conducted by the same set of judges and clerks. There should be separate poll books for each of the three elections and a separate ballot box for each, and the returns should be made separately for each. One election cannot be allowed to have any effect on either of the others and the statute provides that at the election if a majority of votes cast shall be in favor of establishing the high school, it is then the duty of the board of county commissioners to establish the same. There appears to be no possibility of taking into account any question of a majority of all the votes cast for all three places. Each election is separate from the other, and if all three should result in a majority for their respective places, you would have three high schools. Presumably the vote will be

about the same upon each of the three places. It is hardly probable that the advocate of either place would content himself with voting for the place which he preferred without, at the same time, voting against the other places. However that may be, the result of each election must be separate and independent of the vote at the other elections.