

Opinion No. 16-1785

April 27, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Professor E. L. Enloe, President, State Normal School, Silver City, New Mexico.

Persons attending a summer school cannot be given credit for railroad fare if they travel by automobile.

OPINION

{*357} Your letter of the 24th instant was received here yesterday, and I have been giving it considerable attention with a view to seeing whether or not within the terms of the law such an expenditure as has been asked of you can properly be made, and I am compelled to reach the conclusion that it can not be made.

You say that two persons living at a place in Quay County contemplate attending your summer school, and ask if they can be given credit for their railroad fare if they should come through in an automobile. The statute on this subject is to be found in Chapter 45 of the Laws of 1915. Section 1 of that chapter makes appropriations of money for two institutions, one of which is your school, "to pay the railroad fare in excess of seventy-five miles, both going to and returning from said institutions, of all persons who enroll therein with a view to preparing to teach in the schools of New Mexico." Language is used in the second, third and fourth sections to indicate that the money is to be used for the payment of actual railroad fare, and I do not see how the language can be so expanded as to permit of payment equivalent to the railroad fare when the person who enrolls is not subjected to any railroad fare expense, but uses some other method of conveyance. That this is correct will be apparent if we consider the possible absurd results which might follow from any different construction. A man, owning an automobile in the northeastern corner of Union County, could enroll as a student in your school and draw from you a very large amount of money for railroad fare from that remote place, and make a pleasure excursion almost the whole length and breadth of the state, with passengers who would pay him for their transportation, or who, if also enrolled, would each one draw a similarly large amount for their railroad fare.

I am clearly of opinion that only actual railroad fare can be paid, and my recollection is that one, or both institutions named in the {*358} statute, have made rules requiring evidence to be presented of actual payment of railroad fare before any payment is made to the person applying for it.