

Opinion No. 44-4439

January 17, 1944

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Georgia L. Lusk, Superintendent of Public Instruction, Santa Fe, New Mexico.
Attention: Mr. Floyd Santistevan

In your letter dated January 14, 1944 you enclosed a letter to you from a Superintendent of Schools stating that two pupils from outside the district have enrolled in the municipal schools and wishing to know whether the law requires these pupils to attend school in the district where their parents reside and whether the law prohibits their attending school in an adjoining district according to their preference.

Section 55-1202 of the 1941 Compilation authorizes the governing authorities of the schools to admit pupils who are non-resident of the district to the schools under their charge provided school accommodations are sufficient for that purpose.

Section 55-1203 of the 1941 Compilation provides that children between the ages of six and sixteen years inclusive shall attend public schools of the State. There is no law requiring pupils to attend school in any particular district and it is within the discretion of the governing board of a school district whether they shall admit pupils non-resident in that district depending upon school accommodations and facilities and adequate space to care for such non-resident pupils.

For your information I am also enclosing a copy of opinion number 1601, written April 16, 1937, by former Attorney General Frank H. Patton dealing with this same subject.

By C. C. McCULLOH,

First Asst. Atty. General