

Opinion No. 57-233

September 18, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Honorable Georgia L. Lusk, Superintendent of Public Instruction, State Capitol Building, Santa Fe, New Mexico

QUESTION

QUESTIONS

1. May a municipal school board pay its clerk in excess of \$ 600.00 annually?
2. If the answer is in the negative what is the responsibility of the school board and its administrative officers for such overpayment?

CONCLUSIONS

1. No.
2. See opinion.

OPINION

ANALYSIS

Section 73-10-6, N.M.S.A., 1953 Compilation, reads as follows:

"From among its members the board shall elect a president, vice-president and a clerk. The clerk shall receive such compensation as the board shall fix, but not in excess of \$ 300.00 annually where the average daily attendance of the whole district is less than one thousand (1,000) pupils, and not in excess of \$ 600.00 annually where the average daily attendance is more than one thousand (1,000) pupils. He shall perform the enumeration (enumerated) duties as is required in rural districts without extra compensation."

Since the average daily attendance of the Santa Fe Municipal Schools is in excess of 1,000 pupils the \$ 600.00 payment is the maximum. However, anything over that would be in violation of this statute, which we think is clear and unequivocal, and would therefore constitute a mispayment of funds.

As to your second question, we think the answer is fully contained in Opinion of the Attorney General No. 57-142, a copy of which is attached hereto.