

Opinion No. 58-74

April 8, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Jr.,
Assistant Attorney General

TO: Mr. Homer W. Heathman, Public School Finance Division, Department of Finance
and Administration, Santa Fe, New Mexico

QUESTION

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Section 73-7-3 as amended in 1955 states that seven dollars per child may be used for school supplies, library supplies and janitor supplies based upon the preceding year's average daily attendance. If the average daily attendance in the current year increases above that of the preceding year, can the amount budgeted for school supplies, library supplies and janitor supplies be increased to seven dollars per child on the current year's average daily attendance?

CONCLUSION

No.

OPINION

ANALYSIS

Section 73-7-3, as above cited specifically provides in part as follows:

"The aggregate amount budgeted from the state public school equalization fund for school supplies, library supplies, and janitor supplies shall not exceed for any fiscal year an amount equal to seven dollars (\$ 7.00) per pupil in average daily attendance **for the preceding school year in the school district or districts for which the budget is made.**" (Emphasis ours.)

Considering the mandatory language used, no sum of money may be budgeted which would exceed that determined in the manner provided. A computation carried out as above suggested, would effect a complete disregard of the law considered.

By your letter of inquiry, there is presented an analogous comparison with Section 73-12-7 which establishes the basis for determining the number of teachers to be employed. And further, construing this statute, Attorney General's Opinion No. 3309, October 19, 1939, is cited for the proposition above stated. Suffice it is to point out that by Section 73-12-5,

"The above number (Number of teachers) shall be computed upon the basis of average daily attendance,"

whereas Section 73-7-3 requires a determination based on the

". . . average daily attendance **for the preceding school year. . .**" (Emphasis ours)