

Opinion No. 71-43

March 10, 1971

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: Harry Wugalter, Chief Public School Finance Division Department of Finance and Administration Santa Fe, N.M. 87501

QUESTIONS

QUESTION

Under the laws of the State of New Mexico, would it be necessary for school districts which cancelled school on January 5, 6, 7 and 8, 1971, because of extreme weather conditions, to make up those four days by virtue of the provisions of Section 77-6-9, NMSA, 1953 Comp.?

CONCLUSION

No.

OPINION

{*61} ANALYSIS

Section 77-6-9, NMSA, 1953 Comp., requires only that your division shall not approve any budget for a school district unless the budget provides for at least 180 teaching days. I assume that by virtue of the four lost days, a particular school district or districts will not provide 180 teaching days unless there are some make up days imposed.

I likewise assume that at the time your division approved the current budget under which our school districts will operate, all such budgets provided for 180 teaching days. If so, no make up days are required by virtue of Section 77-6-9, NMSA, 1953 Comp.

In any event, the circumstances involved in the situation you present, mitigate against requiring the imposition of make up days or make up classes.

1. The weather conditions existing in most parts of New Mexico on the days in question were intense and most extreme, causing a serious loss of fuel pressure in nearly all New Mexico communities.
2. Suppliers of fuel requested that the use of fuel be curtailed, wherever possible, so as to make absolutely necessary fuel available to the remainder of the community. The public schools complied with this plea. They should not now be penalized for providing this public service.

3. The intense conditions served to make inoperative many of the heating boilers in our public schools. Attendance at class during this period of time would have presented a health hazard to our youngsters as well as our teachers.

Finally, the additional cost involved in requiring make up days is staggering in terms of making cafeteria facilities available to our students and in terms of securing substitute teachers. This, coupled with the experience gained to date in some communities which have required make up days, with regard to low attendance by pupils. would further mitigate against this requirement.

It is, therefore, the opinion of this office that for the days in questions, {*62} namely January 5, 6, 7 and 8, 1971, no make up days or make up classes are required of the school district which finds itself in this position.