

## Opinion No. 16-1716

January 22, 1916

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Samuel Eldodt, Secretary and Treasurer, Spanish-American Normal School, Chamita, New Mexico.

**Student teachers are to be paid \$ 20.00 per month under the provisions of Section 4, Chapter 89, Laws of 1915.**

### OPINION

{\*288} I have received your letter of yesterday inquiring as to the construction of Section 4 of Chapter 89 of the session Laws of 1915. Your question is, in effect, as to whether a student-teacher must be paid \$ 20.00 per month even though his actual and necessary expenses may be less.

In order to make this letter clearly intelligible, I will quote the second paragraph of said Section 4, which contains all that is material to the question you ask.

"Three Hundred Dollars (\$ 300.00) shall be allowed each institution which such student-teachers attend, for each such {\*289} student-teacher appointed as set forth in this Act, to pay actual and necessary expenses for board, books and school supplies, lodging, matriculation and tuition, while in attendance at such institution. The treasurer thereof shall forward to the auditor of the state the certificate of appointment of such student-teachers which certificates shall be vouchers for the payment of the above amount for each of such student-teachers in attendance, and the auditor shall draw his warrant for such amount on the treasurer of the state in favor of the treasurer of any such institution entitled to receive such amount under the provisions of this act. All such warrants so issued shall be paid out of the state school building fund. The treasurer of any such institution shall pay out such money upon requisition of the president of such institution and each of such requisitions of the president shall be accompanied by receipted bills showing such actual and necessary expenditures. All such requisitions together with such receipted bills, shall be filed and preserved in the records of the office of any such treasurer. Provided, that the amount allowed to each student-teacher for the expenses for board and lodging shall not be less than Twenty Dollars (\$ 20.00) per month and that any balance in the amount allowed each institution after all actual and necessary expenses for board, lodging, matriculation, books and school supplies for such students have been paid, shall become a part of the maintenance fund of such institution."

Were it not for the proviso at the end of the foregoing quotation, it would be perfectly clear that nothing should be paid except actual and necessary expenses as stated in the first sentence in the quotation. It looks as though the proviso were an afterthought. There is some difficulty in reconciling the proviso with the requirement that each of the

requisitions of the president of the institution upon its treasurer, shall be accompanied by receipted bills showing such actual and necessary expenditures, because if the actual expenditures for board and lodging are less than \$ 20.00, obviously receipted bills cannot be had for the difference between that which is actually paid and the \$ 20.00. I believe, however, that the legislative intention was an absolute allowance to the teacher for board and lodging no matter if he is able to get his board and lodging for somewhat less, and it might be sufficient to take his receipt for \$ 20.00 for board and lodging and in addition, receipted bills for any of the other expenses enumerated in the first sentence of that part of the section hereinbefore quoted. In other words, to make this clear, the student-teacher must have not less than \$ 20.00 for board and lodging, and in addition thereto, actual and necessary expenses for "books and school supplies, \* \* \* matriculation and tuition."