

Opinion No. 31-24

January 24, 1931

BY: E. K. Neumann, Attorney General

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

{*28} Regarding the inquiry you received from Irvin P. Murphy, Superintendent of Schools, Hope, N. M., I beg to advise that in my opinion the President of the Board should sign the warrants for the current monthly salaries due the teachers.

Sec. 120-1213, N.M. Statutes 1929 Compilation provides that the minimum school term in every rural school district and every municipal school district shall be seven months, or one hundred forty days of actual teaching time inclusive of holidays, providing funds will permit and that school is not prevented by fire, flood, epidemic or disease, etc. Sec. 120-1108 of said Compilation provides that salary to teachers shall be computed and paid on basis of the months as actually taught and that all teachers shall be paid monthly.

{*29} If the Board at Hope allowed a longer holiday at Christmas than is usual or than was contemplated by the authorities at the beginning of the school year, such allowance was, in my opinion within its right and power. If the term at Hope is longer than seven months, if the required statutory time is observed in actual teaching, the extra holiday could have been given by the Board, with any requirement it saw fit to make: (a) such time to be made up or not to be made up later; (b) with full pay to teachers; (c) with loss of pay to teachers, or with any other reasonable requirements not prohibited by law. If the term is less than seven months the extra time given should be made up later.

It is my opinion that the intention of the Board at time of extra holiday was given is controlling in the matter, as to loss of time, etc., but the teachers should be paid the current month's salary, even though the five days lost might later have to be made up to comply with the law.