

Opinion No. 31-313

November 18, 1931

BY: E. K. Neumann, Attorney General

TO: Mrs. Georgia L. Lusk, Supt. of Public Instruction, Santa Fe, N. M.

{*119} Your letter of November 17th, contains two questions:

1. As the law reads, school attendance is compulsory between the ages of 6 and 16 inclusive, does that include the 17th year or merely through the 16th and up to the 17th?

From a reading of the statute involved, it is clear that the law intends to include, in such compulsory attendance, the ages 6 to 16 and no others. In other words, anyone having arrived at his 17th birthday is not required to attend public schools.

Your second question:

2. Please give us an interpretation of the law which permits children working under the work permit law. What about children who sell newspapers after 7 o'clock? We are anxious to know if newspaper carriers can deliver before 7 in the morning and after 7 at night.

The last legislative act upon the hours for children working is found in Section 80-108 of the 1929 New Mexico Code and is as follows:

"No child under the age of sixteen years shall be employed or permitted to labor at any gainful occupation for more than forty-four hours in any one week, nor more than eight hours in any one day, except under special circumstances to be determined by the officer who issued the permit, but in no case shall such child be permitted to work more than forty-eight hours in any one week nor shall such child begin work before the hour of seven o'clock in the morning nor continue after the hour of seven o'clock in the evening of any one day."

It is evident that the number of hours which a child under the age of sixteen may be permitted to work {*120} is forty-four, except in special cases to be determined by the officer issuing the permit as provided for by law. In these exceptional cases, however, the law very plainly states that in no case shall such child be permitted to work more than forty-eight hours in any one week nor shall such child begin work before the hour of seven o'clock nor continue after the hour of seven o'clock in the evening of any one day. A careful reading of said section definitely discloses that it is intended by the legislature that in no case, under any circumstances, shall a child be permitted to commence work before seven o'clock in the morning nor continue working after seven o'clock in the evening of any one day, and, consequently, your second question must be answered in the negative.