

**Opinion No. 32-446**

April 22, 1932

**BY:** E. K. Neumann, Attorney General

**TO:** Mrs. Mary E. Furbee, Supt. of Schools, Ft. Sumner, New Mexico.

{\*157} In answer to your letter of April 20, 1932, I refer you to Sec. 120-1422, 1929 Code, which provides that "No school shall be maintained or budget allowance be made in any school district of this state unless said school shall have an average daily attendance of at least eight (8) pupils."

In the particular case you mention, apparently the average daily attendance has been at least eight pupils up until the present time when it has dropped to six. There is only one more month of school and you wish to know if the school should be closed for the remainder of the term.

The statute above referred to does not specify over what period of time the average daily attendance is to be determined. Since the budget allowance is made for the period of the school fiscal year, it is my opinion that this statute contemplates an average daily attendance to be determined for the period of the entire school year.

Assuming that only six pupils attend for the remainder of the school year, if, nevertheless, the average daily attendance for the entire year will be eight or more, I think the school should be kept open; otherwise, it should be closed.

By Quincy D. Adams,

Asst. Attorney General