

Opinion No. 43-4277

April 28, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Georgia L. Lusk, Supt. of Public Instruction, Department of Education, Santa Fe, New Mexico. Attention: Mr. Floyd Santistevan

We have your letter of April 26, 1943, wherein you state that a person who had been drawing an emeritus employment salary died the thirteenth of April. He had been drawing a stated amount per month. In view of this situation you ask an opinion of this office concerning whether or not the estate of such deceased is entitled to be paid a proportion of the amount that would have been due the deceased, based on the thirteen days that he lived in April.

Under our statutes it seems clear that since this was an emeritus employment salary that whatever proportion of a month was lived that a sum equal to such proportion would have been due to the deceased and is now due to the estate.

It is, therefore, my opinion that the amount of the emeritus salary due the deceased during the thirteen days of the month of April while he was still living may now be paid to the estate. This payment should be made to the Executor or Administrator of such estate.

By HARRY L. BIGBEE,

Asst. Atty. General