

Opinion No. 56-6420

April 16, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. C. R. Sebastian, State Budget Director, State Capitol Building, Santa Fe, New Mexico

We have your letter of February 27, 1956, requesting an opinion from this office pertaining to the payment of expense money to the Board of Directors of the Los Lunas Hospital and Training School. We shall answer the specific questions in the order asked:

1. Is a member of the Board of Directors authorized necessary costs while interviewing a prospective employee where the total amount exceeds the amount provided by Chapter 287, Section 11, Paragraph 2 of the Laws of 1955?

Section 34-3-3, N.M.S.A., 1953

Compilation, provides:

"The members of said board of directors shall receive no compensation for their services, but shall receive the amount of their actual expenses reasonably incurred in attendance upon the meetings of the board."

It would seem that a member of the Board of Directors would not be entitled to any compensation for holding interviews of prospective employees unless such interviews were in connection with a meeting of the Board of Directors. The Board of Directors are entitled to compensation for expenses only when they attend official Board meetings. We are of the opinion that the amount of compensation to which the Board is entitled is governed by Chapter 287, Section 11, Paragraph 2, Laws of 1955, which reads as follows:

"No officer or employee of the state shall be allowed or paid any sum for transportation, lodging or subsistence, except when traveling away from his designated post of duty on official business, nor in excess of necessary traveling expense actually incurred and paid; except that state officers and department heads may allow in lieu of actual expenses for lodging and subsistence a sum not to exceed ten dollars (\$ 10.00) per day, the rate allowed being at the discretion of the State Board of Finance. . . ."

It is our further opinion that this law controls the payment of the per diem allowance allowed to state employees in all cases where the only compensation allowed is the necessary actual expenses incurred while attending the official duties. Note under this statute actual expenses can be recovered, if the claimants submit all receipts for expenditures.

Your second question is:

2. Are the members of the Board of Directors of the Los Lunas Hospital and Training School entitled to actual expenses incurred not to exceed \$ 10.00 per day plus mileage, or are they entitled to the per diem allowance in accordance with the rules and regulations of the State Board of Finance?

We are of the opinion that the Board of Directors of this School are entitled to the payments provided for by Paragraph 2, Section 11, Chapter 287, Laws of 1955 as above pointed out.

3. Are the members of the Board of Directors allowed to allocate to themselves a fee of \$ 25.00 per day to cover expenses incurred in attendance upon the meetings of the Board?

We find no legal basis authorizing such an allowance as pointed out above. The proper allowance is governed by the above quoted portion of Chapter 287, Laws of 1955.

Trusting we have answered your questions, we remain

By: Paul L. Billhymer

Assistant Attorney General