

Opinion No. 57-04

January 14, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: TO: Honorable Didio B. Salas, State Senator, State Senate Office, State Capitol Building, Santa Fe, New Mexico

QUESTIONS

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1. The question you have presented involves the case of the death of a member of a municipal board of education. Should the replacement be elected for four (4) years (the unexpired term of the deceased board member) or for a full six (6) year term?

CONCLUSION

For the unexpired term of four (4) years.

OPINION

ANALYSIS

In general, Section 73-10-4, New Mexico Statutes Annotated, 1953, provides that the term of office of members of a municipal school board shall be six (6) years, except those elected to fill vacancies. Since the death of the member in question created a vacancy, it logically follows that anyone elected to his position would be elected to fill that vacancy. Consequently the election for the position in question can only be for the unexpired term of four (4) years.

You can, of course, appreciate the fact that any other interpretation would have the effect of prejudicing and eventually destroying the announced policy of staggered terms set forth in Section 73-10-4.

Assuming that this fully answers your inquiry we remain