



**THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

FAGAN DICKSON
FIRST ASSISTANT

July 10, 1948

Hon. L. A. Woods
State Superintendent
Department of Education
Austin, Texas

Attn.: Hon. T. M. Trimble,
First Assistant

Opinion No. V-631

Re: The statutory salary of an elementary school principal whose school is in a building separate from the high school building and has less than nine teachers.

Dear Sir:

We refer to your letter of recent date wherein you request our opinion on the above captioned matter. We quote from your letter as follows:

"Article III, Section 2, paragraph 6 of H. B. 295, an Act of the 50th Legislature, reads as follows:

"Elementary and junior high school principals in a school district having a four-year high school may receive an additional allowance of Two Dollars and Fifty Cents (\$2.50) per month for each elementary teacher under his supervision, if the school in which he is teaching is located in a building apart from the high school building or if he devotes fifty per cent (50%) or more of his time to supervision and the school employs nine (9) or more teachers, but in no event shall he receive more than twenty-five Dollars (\$25.00) per month additional."

"Following the line of thought in the first part of the sentence quoted above, \$2.50 can be allowed for each teacher under the supervision of the principal of an elementary school which is located in a building apart from the high school even though

the school does not have nine teachers, as is required in the second part of the sentence, and the principal is not required to devote 50% of his time to supervision."

QUESTION: "Is the Equalization Division of the State Department of Education allowed to grant an increment in salary for a principal of an elementary school at the rate of \$2.50 per teacher under his supervision, if his school is located in a building separate and apart from the high school, and the school has less than nine teachers."

We are informed further that the district in question has a four-year high school, that the elementary school is accredited and that the district has a superintendent. Therefore, paragraphs 2 and 3 of Article III, Section 2, H. B. 295 have no application.

We think that paragraph 6, above quoted, is clear and unambiguous. It provides that an elementary school principal, as well as a junior high school principal, in districts having a four-year high school may receive an increment of \$2.50 per month for each elementary teacher under his supervision under either one of the following conditions: (1) "if the school in which he is teaching is located in a building apart from the high school building; or (2) "if he devotes 50% or more of his time to supervision and the school employs nine or more teachers." The maximum increment such a principal may receive thereunder is fixed at \$25.00 per month.

The word "or" as used in said paragraph and emphasized hereinabove is used in the disjunctive sense. When the term "or" is used, it is presumed to be used in the disjunctive sense unless the legislative intent is clearly contrary. Sutherland Stat. Const., 3d Ed. Vol. 2, Sec. 4923. We find no provision in this law which requires or compels the construction that "or" should be used in the conjunctive sense. Therefore, the clause "and the school employs 9 or more teachers" may not be and was not intended to be considered as an additional condition to be read in conjunction with "if the school in which he is teaching is located in a building apart from the high school building."

The Legislature, we believe, clearly expressed in said paragraph 6 an intent that an elementary school

principal in such a district teaching in a school located apart from the high school building (thus removed from the immediate assistance and advice of the superior school authority, the school superintendent, and left to administer his school in a large capacity) should be paid the increment as provided, even though the school employs less than nine teachers.

SUMMARY

The Equalization Division of the Department of Education is allowed to grant an increment in salary for a principal of an elementary school at the rate of \$2.50 per teacher under his supervision if his school is located in a building separate and apart from the high school even though said school employs less than nine teachers. Acts 50th Leg., 1947, H.B. 295, Art. III, Sec. 2, paragraph 6.

chpt. 228

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Chester E. Ollison*
Chester E. Ollison
Assistant

CEO:mw

APPROVED:

Jagan Dickson
FIRST ASSISTANT
ATTORNEY GENERAL