



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

Superseded by Opinion No. 5-78

**JOHN BEN SHEPPERD**  
ATTORNEY GENERAL

June 1, 1951

Hon. Gordon L. Hollon  
County Attorney  
Kendall County  
Boerne, Texas

Opinion No. V-1177.

Re: Compensation of a county judge  
on a fee basis who is also ex  
officio county superintendent.

Dear Sir:

Your request for an opinion presents the following two questions:

1. Does the law require the compensation received by a county judge as ex officio county school superintendent to be included in the annual report as a portion of the maximum fees to be retained by him?
2. Is the county judge required to report compensation received as ex officio county superintendent and expenses collected by him for travel?

Kendall County compensates its county officers on a fee basis.

It has been consistently held in prior opinions of this office that the compensation received as ex officio county superintendent by a county judge compensated on a fee basis must be included in computing his maximum compensation, and the county judge is not entitled to compensation as ex officio county superintendent over and above his maximum allowed. The county judge must account for said ex officio compensation in arriving at his maximum. Att'y Gen. Ops. 0-67 (1939), 0-263 (1939), 0-1919 (1940), 0-3026 (1941), 0-5251 (1943), 0-6365 (1945), 0-6749 (1945).

It has been likewise held that the traveling expense allowed the county judge as ex officio county superintendent should be shown on his monthly report as required by Article 3899, V.C.S. Att'y Gen. Op. 0-1277 (1939).

You are therefore in answer to your first question advised that the compensation allowed the county judge as ex officio county superintendent is to be included in computing his maximum compensation allowed by law.

Hon. Gordon L. Hollon, page 2 (V-1177)

You are advised in answer to your second question that the county judge must include in his report, as required by Article 3899, the compensation and traveling expense he has received as ex officio county superintendent.

SUMMARY

Compensation received as ex officio county superintendent by a county judge compensated on a fee basis must be included in computing his maximum compensation, and the county judge is not entitled to compensation as ex officio county superintendent over and above his maximum allowed by law. The county judge must include in his report, as required by Article 3899, the compensation and traveling expense he has received as ex officio county superintendent. Att'y Gen. Ops. 0-67 (1939), 0-263 (1939), 0-1919 (1940), 0-3026 (1941), 0-5251 (1943), 0-6365 (1945), 0-6749 (1945).

APPROVED:

J. C. Davis, Jr.  
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Yours very truly,

PRICE DANIEL  
Attorney General

By   
John Reeves  
Assistant