



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

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ATTORNEY GENERAL

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

Attention: Mr. T. M. Trimble

Dear Sir:

Opinion No. 0-6042  
Re: Limitation on the amount of  
salary which may be received  
by the Director of Radio and  
Visual Education of the State  
Department of Education.

Your opinion request of May 23, 1944, reads as follows:

"Attached you will find our payroll for the month of April and a letter from Mr. George H. Shappard, Comptroller of Public Accounts, who has questioned the legality of the salary of Mr. L.C. Proctor, who has been employed by the State Superintendent to be paid from the Radio and Visual contingent appropriation. Up to this time he was given the title of "Supervisor of Visual Education". The position as of April 1st has been changed to that of "Director of Radio and Visual Education", and the salary fixed at \$275 per month.

"I would like to know whether the Comptroller of Public Accounts is justified in refusing to approve the salary as fixed herein.

"Since Mr. Proctor has not received his salary for the month of April and is in need of his money, we request a rush opinion on this matter."

It is our understanding that no specific appropriation has been made either for the position now held by Mr. Proctor or for the position previously held by him, but that the salaries for both positions have been paid from the appropriation for contingent expense of the Radio and Visual Education Division of the Department of Education. In the Departmental Appropriation Act of the 48th Legislature the following appropriations are made for this Division:

	Beginning September 1, 1943	"For the Years Ending August, 31, 1945.
"138. Supervisor of radio and special education	\$3,000.00	\$3,000.00
139. Contingent expense for radio visual education	10,000.00	10,000.00
Total	<u>\$13,000.00</u>	<u>\$13,000.00"</u>

Section 15(d) of the General Provisions of this Appropriation Act provides as follows:

"Additional Employees' Compensation. When any additional employees other than those for which specific salary appropriations have herein been made, are employed and are to be paid out of contingent appropriations, such employees shall not be paid a larger amount than that provided in the regular appropriated salaries for similar positions in such department or agency, and in the event there are no similar positions within such department, then such additional employe shall not be paid a larger amount than that provided for similar positions in other departments or agencies. . ."

It will be noticed that under this provision Mr. Proctor cannot be paid a salary larger than that paid for

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"similar positions" within your department. While we have not been informed as to the positions which may be similar to that held by Mr. Proctor, we assume that in any event his position does not entail greater responsibilities or duties than does the position of the Supervisor of Radio and Special Education, the head of the Division in which Mr. Proctor is employed. Since the Supervisor's salary is \$3,000.00 per year or \$250.00 per month, we feel that Mr. Proctor's salary cannot exceed this amount. Consequently, you are respectfully advised that the Comptroller of Public Accounts was justified in refusing to approve a salary of \$275.00 per month for Mr. Proctor's position.

Trusting that the foregoing fully answers your inquiry, we are

APPROVED MAY 19 1944  
RECEIVED  
COMMISSION  
ATTORNEY GENERAL TEXAS  
CHAIRMAN

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *R. Dean Moorhead*  
R. Dean Moorhead  
Assistant

RDM:fo