

86-00050
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Honorable William E. Burkett
Superintendent
Jefferson County Board of Education
400-A Courthouse Building
Birmingham, AL 35263-0056

Boards of Education - Officers
and Offices - Compensation

Members of the Jefferson County
Board of Education can receive
\$300.00 per month compensation at
the expiration of the term of any
member occurring after the annual
meeting of the Board at which the
compensation was approved.

Dear Mr. Burkett:

We have received your request for an opinion from our
office regarding Code of Alabama 1975, §16-1-26, compensation
for boards of education. Your question was as follows:

"May the Jefferson County Board of Educa-
tion approve an increase in compensation
within the limits established by §16-1-26,
Code of Alabama 1975 at its annual meet-
ing in November of 1985, effective immedi-
ately, on the authority of Amendment No. 2
to the Constitution of Alabama (1901)?"

Code of Alabama 1975, §16-1-26 states:

(a) Members of city and county school
boards are hereby authorized to receive
reasonable compensation for their services,
not to exceed \$300.00 per month, unless set
at a higher figure by a local act, upon

approval by a majority vote of the members at the board's annual meeting. Compensation shall be in addition to actual traveling and other necessary expenses incurred in attending meetings and transacting business of the board.

(b) The compensation, actual traveling expenses and other necessary expenses incurred shall be paid as other ordinary and necessary expenses of the board.

(c) Any individual school board member, at his option, may refuse to accept all or any portion of the approved compensation.

This compensation is not an expense allowance. Therefore, Amendment No. 92 of the Constitution of Alabama, 1901 is applicable. The pertinent portion of Amendment No. 92 reads:

Any provisions of this Constitution or amendments thereto to the contrary notwithstanding, neither the legislature, nor any county of the state shall, by the imposition of new, different, and additional duties or otherwise, increase, or authorize the increase of, the salary, fees or other compensation of any officer of the state or of any county of the state, who is elected or appointed for a fixed term, during the term for which he is elected or appointed, regardless of the pleasure of the authority electing or appointing him or only upon impeachment; ...As to officers who are members of any such court, board, commission or similar body shall become effective as to all such members thereof immediately after the expiration of the term or terms of office of the member or members whose term or terms first expire.

Amendment No. 2, Constitution of Alabama 1901, was ratified in 1912. Amendment No. 92, Constitution of Alabama 1901 was passed in 1952. As the two amendments are in conflict, the latter would be controlling.

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Therefore, the compensation provided in Section 16-1-26 when approved by a board of education, becomes effective for all members of the board when the term of office of any member or members expire. Thus, if the members of the Jefferson County Board of Education serve staggered terms, all of the members may receive the \$300.00 per month compensation after the expiration of the term of the member which first expires after the annual meeting at which the compensation was approved. If the Board members do not serve staggered terms, the members must wait until the expiration of their present terms to receive the increased compensation.

I hope this sufficiently answers your question. If, however, we may be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL
By:


ALICE ANN BOSWELL
ASSISTANT ATTORNEY GENERAL

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