



PRICE DANIEL
ATTORNEY GENERAL

THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

R-284

April 19, 1947

Hon. Bayne Satterfield
Firemen's Pension Commissioner
Austin, Texas Opinion No. V-154

Re: Upon the remarriage of a
deceased member's widow,
what amount should be
paid to the dependent
children from the Fire-
men's Pension Fund?

Dear Sir:

Your statement and request for an opinion is
as follows:

"The widow of a fireman who had been
killed in the performance of his duty as
a fireman, has been granted benefits as
provided in Section 12, Article 6243-e,
V.R.C.S. Recently the widow remarried
and the question is, 'What amount should
the Board grant to the dependent children
after her remarriage?'"

Section 16 of Article 6243-e-1 of V. O. S.
provides in part as follows:

"If any member of any department, as
herein defined, who has been retired on
allowance because of length of service or
disability, shall thereafter die from any
cause whatsoever; or if while in service
any member shall die from any cause grow-
ing out of and/or in consequence of the
performance of his duty; or shall die from
any cause whatsoever after he has become
entitled to an allowance or pension certi-
ficate and shall leave surviving a widow,
a child or children under the age of eight-
een (18) years or a dependent parent, said
Board of Trustees shall order paid a month-
ly allowance as follows: (a) to the widow,
so long as she remains a widow and provided

she shall have married such member prior to his retirement, a sum equal to one-third of the average monthly salary of the deceased at the time of his retirement on allowance or death; (b) to the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years; (c) to the dependent parent only in case no widow is entitled to allowance, the amount the widow would have received to be paid to but one parent, and such parent to be determined by the Board of Trustees, and (d) in the event the widow dies after being entitled to the allowance as herein provided, or in the event there be no widow or dependent parent to receive such allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each such dependent minor child; provided however, that the total allowance to be paid all beneficiaries or dependents as herein provided shall not exceed the monthly allowance to be paid the pensioner had he continued to live or be retired on allowance at the date of his death; and further provided, that if such amount be insufficient to pay full schedule of benefits as herein provided such benefits shall be prorated. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries." (Emphasis ours).

This statute clearly states in sub-section (d) that if there be no widow, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen years shall be increased to the sum of \$12.00 per month for each such dependent minor child. Since, upon her remarriage, the former wife of the deceased member is no longer a widow, the dependent children are entitled to \$12.00 per month each until they are eighteen years of age, or married; provided that the total allowance to be paid them shall not exceed the monthly allowance to be paid the pensioner, had he continued to live or been retired on allowance at the date of his death.

Hon. Bayne Satterfield, Page 3, V-154

SUMMARY

Upon the remarriage of the widow of a deceased member of the Firemen's Pension Fund, the dependent children of the deceased member are entitled to \$12.00 per month, each, until they have attained the age of eighteen years, or marry; provided the total allowance to be paid them shall not exceed the monthly allowance to be paid the pensioner, had he continued to live or been retired on allowance at the date of his death.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By 
Robert A. Hall
Assistant

APPROVED APR. 23, 1947


ATTORNEY GENERAL

RAH:jmc:mrj