

## Opinion No. 47-4977

January 15, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. R. H. Grissom, Educational Budget Auditor, State Capitol, Santa Fe, N. M.

{\*5} We are in receipt of your letter of January 7, 1947 in which you ask various questions in connection with the salary which should be paid County School Superintendents under Chap. 130, Laws of 1945.

This chapter, insofar as material, is as follows:

"\* \* \* Said superintendents shall receive annually from the school funds salaries at the rate of \$ 50.00 for each rural school room conducted plus an additional amount in counties of the various classes as follows: Counties of the first class, \$ 2,000.00; Counties of the second class, \$ 1,750.00; Counties of the {\*6} third class, \$ 1,500.00; Counties of the fourth class, \$ 1,250.00; Counties of the fifth class, \$ 1,200.00; provided, however, that the minimum total salary to be paid to a county superintendent shall be \$ 2,500.00 per annum, and the maximum total salary for such purposes shall be \$ 4,000.00 per annum."

First -- You ask whether the number of rural school rooms conducted on January 1st should be the test.

It is my opinion that the number of school rooms in operation on January 1st should determine the salary of the county school superintendent, as that is the date his services commence. Where a change has occurred since the budget was made up, a budget adjustment of course would be necessary.

Second -- You ask whether the employment of a superintendent may be considered a school room.

It appears to me that the statute is clear. It bases the salary on the number of school rooms conducted and not on the number of teachers. It is therefore my opinion that you should not consider a supervisor as a school room, but only the number of school rooms actually conducted.

Third -- You state that in some counties entire schools are transported to other districts. You ask whether these pupils so transported may be counted as a rural school room.

As noted above the test is the number of rural school rooms actually conducted. It is therefore my opinion that you should not consider the pupils, so transported, as a school room, but only the number of rural school rooms actually conducted.

Fourth -- You state that in many instances less school rooms are being used than were used at the time the superintendents paid their filing fees on the amount budgeted last spring. You ask whether the salaries can now be reduced.

As noted above, the number of school rooms conducted January 1st, determines the salary to be paid. It is therefore my opinion that the salary is not reduced, and the fact that a proportionately larger filing fee was paid, does not entitle the superintendent to such additional salary.

Trusting the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General