

## Opinion No. 54-5908

February 25, 1954

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Beatrice B. Roach Secretary of State State Capitol Building Santa Fe, New Mexico

{\*349} On February 16th you addressed an inquiry to this office concerning the proper filing fee for the office of County School Superintendent. § 56-810, N.M.S.A., 1941 Comp., as amended, provides that 3% of the first year's salary for any office is to be collected as a filing fee. The 1953 Legislature, in Ch. 104, Laws of 1953, provided a "sliding" scale for the salaries of County School Superintendent. The scale is based upon three factors: (1) the number of teachers employed and under the jurisdiction of the said school superintendent; (2) upon the educational qualifications of the school superintendent; and (3) tenure in education.

The Act provides that no salary shall be less than \$ 3325 per year nor exceed the sum of \$ 7200 per year, unless no rural school rooms exist in the County in which case the salary shall be \$ 1.00 per year.

The base salaries are specified as follows:

1. \$ 3,000 base salary in counties employing fifty (50) or more teachers;
2. \$ 2,800 base salary in counties employing forty (40) to forty-nine (49) teachers;
3. \$ 2,600 base salary in counties employing thirty (30) to thirty-nine (39) teachers;
4. \$ 2,400 base salary in counties employing twenty (20) to twenty-nine (29) teachers;
5. \$ 2,200 in counties employing less than twenty (20) teachers.

In addition to the foregoing base salaries, county school superintendents holding the administrative certificate, or the regular elementary certificate, or the regular high school certificate shall be entitled to the following additional annual compensation.

(a) \$ 30.00 additional for each teacher employed within the county and under the jurisdiction of the County Superintendents of Schools:

(b) \$ 500 additional for a Bachelor of Arts or Bachelor of Science Degree;

(c) \$ 500 additional for Master of Arts or Master of Science Degree;

(d) \$ 100 per year for each year of service to a maximum of fifteen (15) years for professional teaching or administrative service of the type approved for credit under the

Educational {\*350} Retirement Act. Provided, however, that no salary of any county school superintendent shall be less than \$ 3325.00 per year. And provided further, that in counties where there are no rural school rooms under the jurisdiction of the county school superintendent that the salary of the county school superintendent shall be \$ 1.00 per year shall be paid to any such county school superintendent. Provided, however, the maximum salary paid hereunder shall not exceed the sum of \$ 7,200.00 per annum.

The Act then provides for an additional salary, dependent upon the number of teachers, upon the possession of certain degrees, and for each year's tenure up to a maximum of fifteen years. The office of county school superintendent thus would be subject to a base salary when application of the formula above set out is applied and would be the same for each candidate in any given county. The additional or the supplemental pay for educational qualifications and tenure would be dependent upon the individual candidate involved in the race. Thus the imposition of a filing fee dependent upon the qualifications and tenure possessed by the individual candidate would be an absurd result and would require different candidates in the same office in the same county to pay different filing fees.

The language in § 56-810, N.M.S.A., 1941 Comp., providing that the filing fee "shall be 3% of the first year's salary **for any office**," indicates that the filing fee should be uniform for any given office.

Therefore it is the opinion of this office that the base salary with the formula set out above applied would be the filing fee for county school superintendent irrespective of the tenure and educational qualifications.

By: Fred M. Standley

Assist. Attorney General