

**Opinion No. 56-6433**

April 30, 1956

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

**TO:** Mr. Thomas P. Foy, District Attorney, Sixth Judicial District, County Court House, Silver City, New Mexico

You have indicated that there is a movement to consolidate all of the schools in your County into one consolidated school district; that when this is done the County School Superintendent will naturally not have any duties to perform. Further, you indicate that this consolidation may be completed between the time a County School Superintendent is elected and the time he takes office on the first of January, 1957.

The question you raise is prompted by Article IV, § 27 of our Constitution, which provides that the compensation of officers shall not be ". . . increased or diminished during his term of office . . ." Your question, I gather, is:

What will be the effect of the consolidation if effected between election time and January 1, 1957, on the salary of the County School Superintendent?

Section 73-5-1, N.M.S.A., 1953, the statute which prescribes the salaries for county school superintendents in subsection (d), provides:

". . . 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 . . ."

Thus, at the time the County School Superintendent starts serving his term on January 1, 1957, his salary will be governed by § 73-5-1, and if, as you state, all schools by that time will be within the consolidated district he will have no "rural school rooms under (his) . . . jurisdiction . . ." and his salary accordingly will be \$ 1.00 per year.

It seems to us that the constitutional provision above would have no effect upon the salary of the County School Superintendent elected to the term starting on January 1, 1957, since the change in salary would be effected prior to the beginning of that term. We are assuming that you have no question regarding the present County School Superintendent's salary and the effect of consolidation prior to the end of his term.

I trust the above answers your inquiry.

By Santiago E. Campos

Assistant Attorney General