

Opinion No. 57-67

April 3, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Honorable R. C. Morgan, State Senator, Portales, New Mexico

QUESTIONS

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1. Is the county school superintendent a county officer?
2. May the salary of such officer be increased by the Legislature?

CONCLUSIONS

1. Yes.
2. Yes, but not during the term of office.

OPINION

ANALYSIS

Article IV, § 27 of the State Constitution provides, in part, that the compensation of any officer shall not be increased nor diminished during his term of office except as otherwise provided in the Constitution.

We are of the opinion that a county school superintendent is a county officer; however that may be, Article IV, § 27, is an impediment to increasing or decreasing the salary of **any** officer during his term of office. There is not the slightest question in our minds that the Legislature may increase or decrease the salary or salaries of county school superintendents, but the difficulty arises in providing when such salary increase or decrease shall become effective.

In Opinion of the Attorney General No. 5995, dated July 27, 1954, it was held that the constitutional provision could not be evaded by a subterfuge such as resignation by the county school superintendent and his immediate reappointment in such capacity.

In Opinion of the Attorney General No. 5923, dated March 29, 1954, it was held that the compensation of county school superintendents could not be constitutionally increased during their term of office.

We agree with the two cited opinions, and hold that the salaries of county school superintendents cannot constitutionally be changed during their term of office.