

Opinion No. 43-4306

June 2, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Georgia L. Lusk, Superintendent of Public Instruction Department of Education, Santa Fe, New Mexico

In your letter dated May 28, 1943, you inquire whether a decrease in the number of class rooms during the first term of a County School Superintendent would cause a decrease in the salary of such Superintendent for the second term. Section 55-401 of the 1941 Compilation provides in part as follows:

"* * * Said Superintendents shall receive annually from the school funds salaries based on the number of rural school rooms in which school is being conducted under the jurisdiction of the respective county boards of education **at the time of the election of such superintendent** * * *."

If the decrease during the first term amounts to a sufficient number of school rooms to cause a change in the salary schedule it seems clear under this section that the salary would be affected during the second term. It is the number of school rooms being conducted at the time of the election of the superintendent that governs the salary for the two year term for which such officer is elected regardless of whether such term be the first term or the second term of the superintendent.

By C. C. McCULLOH,

First Asst. Atty. General