

**SUPERINTENDENT OF
SCHOOLS:**

QUALIFICATIONS.

3-21
March 21, 1934.



His Excellency
Governor Guy B. Park
Jefferson City
Missouri.

Dear Governor:

We are in receipt of your Excellency's request for an interpretation of Section 9454, R. S. 1929, as to the qualifications of a County Superintendent of public schools.

Section 10929, R. S. Mo. 1909, was amended in 1911 (Laws 1911, page 404), and was carried into the 1919 Revision as Section 11343, which was amended in 1923 (Laws 1923, page 358), so that Section 9454 is the present statute. Said section provides in part as follows:

***** said county school superintendent shall be at least twenty-four years old, a citizen of the county, shall have taught or supervised schools as his chief work during at least two years of the eight years next preceding his election or appointment, as a regular student in a state teachers' college or university, and shall at the time of his election hold a diploma from one of the state teachers colleges or state university, or shall hold a state certificate, authorizing him to teach in the public schools of Missouri, or shall hold a first grade county certificate authorizing him to teach in the county of which he is superintendent: *****

A reading of the above shows that the Legislature intended the County Superintendent of Schools to have the following qualifications:

- (1) Age -- over 24 years;
- (2) Residential -- citizen of county;
- (3) Experience -- teaching or supervise schools;
- (4) Educational -- graduate of schools or having teaching certificate.

The County Superintendent of Schools is an office created by statute, Section 9454, R. S. Mo. 1939. " Such an officer has no common law powers and warrant for all his official acts must appear in statutory enactment. " -- State ex inf. Burgess v. Hodge, Missouri Supreme Court In Banc, 330 Mo. 877. This case was a proceeding in the nature of a quo warranto, in which the right of Hodge, respondent, to hold the office of county superintendent of public schools for Barry County was challenged. Hodge was duly elected and qualified but his predecessor in office questioned his right to succeed him in office for the reason that Hodge, on the date of his election, did not have a certificate entitling him to teach in the public schools of Barry County. The trial court gave judgment for respondent, Hodge, which was affirmed by the Supreme Court, which held that a county superintendent elected within three years after a renewal of his certificate was qualified.

The office of County Superintendent of Schools requires that one be qualified as to age, residence, previous experience and education. That provision relating to previous experience is this -

"shall have taught or supervised schools as his chief work during at least two years of the eight years next preceding his election or appointment; ****"

The Legislature did not prescribe in what grades such person should teach; neither did it say as to what was meant by

"supervised schools". We are inclined to the conclusion (State ex inf. Burgess v. Hodge, supra, and State ex inf. Chinn v. Hollowell, 288 Mo. 674), that this part of the statute simply raises a question of fact as to previous teaching experience; that is to say, that one might not actually have taught school, yet if he "supervised schools" as his chief work during at least two years of the eight years next preceding his election or appointment, then such person would be qualified from an experience or business viewpoint, and this is all we believe that the Legislature intended.

Now, as to the phrase "supervised school as his chief work", we believe that the Legislature intended that to mean, one who had experience and engaged in that particular kind of work, that is, it was not limited to actually being superintendent of schools or a principal of a school but might apply to one who worked with one actually having the authority to supervise. "Supervising" being defined by the Century Dictionary as "oversee, have charge of, with authority to direct or regulate."

In Businessmen's Assurance Company v. Campbell, 6 Fed (2d) 540, the Circuit Court of Appeals, Eighth Circuit, in construing the word "supervise" found in an answer contained in an application for an insurance policy, said the following:

"We think that to supervise such a business means to supervise all of its activities and may include 'demonstrative direction' and 'regulation' in selling, assembling, and teaching the use of farm implements. We do not mean to hold that the term in question would include all general manual labor usually performed by employes or others, and not necessary to the direction and regulation of the work or task in hand. We think that, in determining what is supervision of any particular business, one must consider the character of the business, its customs, and the manner of its general direction and regulation; *****"

So we conclude and it is our opinion that if a person actually taught in a school for two years or was engaged in the work of supervising schools either officially or as an employee, or agent, or representative, or aid of a superintendent, then such person would be qualified under this section if such were elected or appointed superintendent.

As to the other part of said section, namely, as to educational qualifications, a person seeking to be County Superintendent would have to hold a State certificate or hold a diploma from one of the State teachers' colleges or State university.

Yours very truly,

JAMES L. HORNOSTEL
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.