

SCHOOLS: County Superintendent's salary, clerk hire and traveling expenses.

May 29, 1935.



Mr. G. C. Jones  
County Superintendent  
Department of Education  
Laclede County  
Lebanon, Missouri

Dear Sir:

Your request for an opinion, dated May 18, 1935, reads as follows:

"As the first of July is the beginning of the new term of County Superintendents and the county court is lining up on the salary and traveling expenses with the expectation of finding some way to cut same, especially the traveling expense and clerk hire; this being the case, I will appreciate your opinion on the matter of traveling expense and clerk hire of County Superintendent.

"Section 9457 of Missouri Laws mentions the County Superintendents powers as far as supervision is concerned, then section 9467 allows the County Superintendent \$3.00 per teacher UNDER HIS JURISDICTION. Now it seems to me that the county superintendent would have jurisdiction over all teachers in his county, even though he did not have supervision over them.

"Under section 9470 the county Superintendent has power to grant certificates to teachers in his county whether they teach in a first class school or a rural, also under section 9476 he has power to revoke county certificates and must also take part in revocation of state certificates, in other words, all cases of revocation of certificates

May 29, 1935.

must come under the jurisdiction of county superintendent.

"All teachers are required to register their certificates with the county superintendent; we must also receive reports from all classes of schools, must furnish blanks etc. This being the case I feel that section 9467 intended that we should be paid for all teachers of the county instead of just those under our direct supervision. I will appreciate your opinion on this matter. Thanking you in advance."

At the last census Laclede County had a population of 16,320 inhabitants.

Section 9463, Laws 1933, page 384, provides for the salary of County Superintendents of Schools in Missouri, and reads:

"In counties having less than seven thousand population the County Superintendent of Schools shall receive One Thousand and Fifty Dollars; in counties having a population of more than seven thousand and less than ten thousand he shall receive Twelve Hundred Dollars; in counties having a population of more than ten thousand and less than twelve thousand he shall receive One Thousand Three Hundred and Fifty Dollars; in counties having a population of more than twelve thousand and less than fifteen thousand he shall receive One Thousand Six Hundred Dollars; in counties having a population of more than fifteen thousand and less than twenty-five thousand he shall receive One Thousand Eight Hundred Dollars; in counties having a population of more than twenty-five thousand and less than thirty-six thousand he shall receive Two Thousand Dollars; in counties having a population of more than thirty-six thousand and less than seventy thousand

he shall receive Two Thousand One Hundred Dollars; and in counties having a population of more than seventy thousand and less than one hundred thousand he shall receive Two thousand Two Hundred and Fifty Dollars, of which the State of Missouri shall appropriate annually out of the general revenue fund of the state of Missouri four hundred dollars to each and every county. The county superintendent shall receive his salary monthly from the county revenue fund in the form of a warrant drawn upon the county treasurer."

Section 9465, Laws 1933, page 385, provides:

"For the purpose of ascertaining the population of any county in this state in order to determine the salaries of County Superintendents of public schools, the last previous decennial census of the United States shall be conclusive."

Section 9467, R. S. Mo. 1929, provides for the County's liability for traveling expenses and necessary clerical hire in the office of County Superintendent of Schools and reads:

"That the county superintendent of public schools shall be allowed out of the county treasury not to exceed twenty-five per cent. of his annual salary for traveling expenses and necessary clerical assistance, provided such allowance shall not exceed three dollars (\$3.00) annually for every teacher under his jurisdiction. The county court shall, upon presentation of his bill properly setting forth his actual expenditures for traveling expenses and clerical hire, draw a warrant upon the county treasury for the payment of same: Provided, when the county superintendent shall fur-

nish his own conveyance, the rate allowed for mileage shall be four cents per mile for each mile actually and necessarily traveled."

Section 9457 R. S. Mo. 1929, delegates to the County Superintendent of Schools his supervisory powers, and reads as follows:

"The county superintendent shall have general supervision over all the schools of his county, except in city, town and village school districts employing a superintendent who devotes at least one-half of his time to the direct work of supervision. He shall visit each school under his jurisdiction at least once each year, and as many other times as practicable; he shall examine the classification of pupils, the methods of instruction, the manner of discipline, the order maintained, the results secured, and make such suggestions to teachers and school boards as he may deem advisable; he shall inspect the ventilation, note the conditions of the building, furniture, apparatus, grounds and appurtenances thereto belonging, and report the same to the board in writing, with such suggestions as he may consider necessary to the health, comfort and progress of the pupils; he shall examine the teacher's register and the district clerk's record and see that they are kept according to law; he shall furnish, annually, statements to the district clerks showing the assessed valuation of their respective districts; he shall receive, and, if properly made, approve estimates and enumeration lists and turn same over to the county clerk; he shall assist the district clerks, when necessary, in making their reports, and see that all warrants have been duly issued 'by order of the board,' either for services actually rendered or for material actually furnished."

CONCLUSION.

It is our opinion that the salary of the Superintendent of Schools of Laclede County, based upon the last census, would be the salary for the counties of more than fifteen thousand and less than twenty-five thousand population, or exactly One Thousand Eight Hundred Dollars.

It is our opinion that the traveling expenses and necessary clerical hire of the County Superintendent of Schools for Laclede County is limited in Section 9467, supra, by a triple limitation. He cannot legally exceed 25% of \$1,800.00, or his claim against the County Treasury will be excessive, nor can he exceed \$3.00 for every teacher under his jurisdiction, or his claim against the County Treasury will be excessive. Under the law, as a public officer, he is entitled to only that necessary clerk hire and traveling expenses. For example, if he had one hundred fifty teachers under his jurisdiction, he could legally expend and demand \$450.00 from the County Treasury for necessary clerk hire and traveling expenses. On the other hand, if he had only one hundred teachers under his jurisdiction, his limit for a legal expenditure and demand against the County Treasury would be \$300.00 for necessary clerk hire and traveling expenses. The County's liability for this expenditure decreases \$3.00 from the \$450.00 limit for every teacher under one hundred fifty under his jurisdiction.

It is our further opinion that the phrase "teachers under his jurisdiction" as used in Section 9467, supra, in computing allowable expenditure, does not mean to include those pupils who, under the Statutes, happen to qualify for teachers by reason of having to take the teachers' examination under his direction and examination, for which he be required to issue certificates to qualified candidates, nor does the phrase judicially comprehend those teachers who hold their county certificate subject to his right under the Statutes to revoke for cause. When the Legislature used the word "jurisdiction" they used it in the sense of supervision. His very title is that of Superintendent which means one who supervises. The fact that he has power under the Statutes to issue and revoke teachers' certificates, gives him no jurisdiction over the

Mr. G. C. Jones

-6-

May 29, 1935.

teachers who receive their certificates from him, hence they cannot legally be said to be teachers under his jurisdiction. The certificate to teach is only a statutory incident, a collateral prerequisite to the right to practice a profession in Missouri. The teacher does not come under the Superintendent's jurisdiction, under the provisions of Section 9467, supra, until the relationship of Superintendent and teacher exists as provided in Section 9457, supra. A teacher does not come within his jurisdiction until employed to teach in a school over which the County Superintendent is empowered to exercise a supervisory control. The Superintendent's duty is to visit schools under his jurisdiction and it was for this visitation that the Legislature provided how he is to recoup his traveling expenses.

Where the Superintendent uses his own conveyance in traveling, the transportation is to be computed at four cents per mile when audited by the County Court.

Respectfully submitted

WM. ORR SAWYERS  
Assistant Attorney General.

APPROVED:

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ROY MCKITTRICK  
Attorney General.

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