

SCHOOLS: County superintendent is a member of county textbook commission regardless of fact that he may have been employed by publisher of school books prior to his election.

November 17, 1942

11-25



Mr. Oscar L. Carter
Superintendent of Schools
Webster County
Marshfield, Missouri

Dear Sir:

We have your letter of November 12th, which reads as follows:

"1. Can the directors of a closed (destroyed building) school district invest their insurance money in Defense Bonds? They have had these funds in the Bank on time deposit, but the Bank has quit paying interest, therefore, they desire to buy bonds. This is a Rural District with 3 directors.

"2. Can a person representing a book company, selling books and supplies to schools, qualify as County Supt. of Schools if elected?

"I understand that since he'd be President or Chairman of the County Textbook Commission, if elected, that he would not be eligible if he represented a book company any time 2 yrs. previous to the time of his election or appointment. I'll greatly appreciate a copy of your ruling on this."

November 17, 1942

In answer to your first question, we enclose herewith a copy of an opinion rendered by this office on April 23, 1942, addressed to Hon. J. R. Garrison, Prosecuting Attorney, Warrensburg, Missouri. This opinion answers your first question.

In answer to your second question, we submit the following:

Section 10609, R. S. Mo. 1939, prescribes the qualifications for county superintendent of schools. Said section reads 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; or shall have spent the two 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; * * *."

It will be noted that there is no prohibition against a person being elected county superintendent of schools who has theretofore been a salesman or employee of any book company. So long as a person possesses the qualifications set forth in said Section 10609, he is eligible to be elected to the office of county superintendent of schools.

Section 10636, R. S. Mo. 1939, which provides for a county school textbook commission, reads as follows:

"There is hereby created a county school textbook commission, which shall be the county board of education in all counties in which such a board exists. In counties where there is no county board of education the school textbook commission shall consist of the county superintendent of schools and two teachers, who shall be selected in the following manner: One member to be appointed by the County Court in each county and one member to be appointed by the state board of education, the appointments to be made in April, 1939, and every two years thereafter: Provided, that no person shall be appointed to serve on the said commission who has been in the employ, as a traveling salesman or otherwise, in this state, of any publisher of school textbooks within the period of two years prior to this article. Vacancies on the commission, resulting from death, resignation, removal from the county, disqualification, or otherwise, shall be filled as prescribed by law. A majority of the commission shall constitute a quorum for the transaction of all business of the commission."

By the latter section the county superintendent is ex officio a member of the textbook commission. The said section provides for the appointment of two teachers to serve with him as members of said commission. The proviso against appointment of persons to serve on said commission who have within two years prior thereto been employed by a publisher of school textbooks applies to the two members who are appointed, that is, the two teachers. The county superintendent is not appointed to the textbook commission by anyone, and so said proviso relating to appointing cer-

Mr. Oscar L. Carter

-4-

November 17, 1942

tain people has no reference to him. He is a member of said commission by law and no appointment by anyone is necessary to make him a member of the commission.

CONCLUSION

It is, therefore, the opinion of this department that the county superintendent of schools is a member of the county school textbook commission regardless of the fact that he may have been employed by a publisher of school textbooks prior to his election as county superintendent.

Respectfully submitted

HARRY H. KAY
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

HHK:HR