

COUNTY SCHOOL SUPERINTENDENT'S  
SALARY:

Change in salary caused by  
change in population becomes  
effective at the beginning of  
the term year.

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December 31, 1940

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Honorable H. C. Holt  
County Superintendent of Schools  
Maysville, Missouri

Dear Mr. Holt:

This will acknowledge receipt of your letter  
of December 23, 1940, in which you ask for an opinion  
as follows:

"I am writing you in regard to  
reduction of County Superintendents  
of Schools salary based on 1940  
census. The population of DeKalb  
County is some 200 below 10,000.  
According to Sec. 9463 R. S. Laws  
1938, this calls for reduction in  
my salary. The County Superintendent  
of Schools year ends July 1st, does  
my reduction start January 1st. or  
July 1st. of 1941?"

The salary of the county superintendent of  
schools is fixed by Section 9463, R. S. Missouri 1929,  
as amended by the laws of 1933 at page 384, and is as  
follows:

"In counties having less than seven  
thousand population the County Super-  
intendent 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."

For the purpose of paying the salary the population is to be ascertained by the last previous decennial census. Section 9465, R. S. Missouri 1929, as amended by Laws of 1933 at page 385, is as follows:

"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."

In the case of State ex rel. Harvey v. Linville, 318 Mo. 698, 300 S. W. 666, the Supreme Court, in a case involving the salary of a county superintendent of schools of Benton County, ruled as follows, l. c. 1067:

"Section 10938, R. S. 1909, provides for ascertaining the 'annual' salary. Section 11352, R. S. 1919, says that the superintendent shall receive so much money, dependent upon the population of the county, without saying whether it was per annum. From the context it must be presumed that annual salary was meant. 'Annual salary,' as used in said section 10938, means salary for each year of the incumbency. It cannot be split up into periods by elections, which occur during the year, and must be calculated on a year as a whole. We conclude further that 'annual,' as applied to salaries, means not the calendar years, but the years of the incumbent's term, which in the case of relator begins on the 1st day of April each year."

Since the above decision was rendered the law has been amended making the term of office of a County Superintendent start July 1st, instead of April 1st, Section 9454 R. S. 1929.

#### CONCLUSION

Based on the above decision, it is the conclusion of this department that any change in the salary of the County Superintendent of Schools of Dekalb County,

Hon. H. C. Holt

(4)

December 31, 1940

which is occasioned by the 1940 census, should be put in effect at the commencement of the next year of the term of office which is, as stated in your letter, July 1, 1941.

Respectfully submitted

W. O. JACKSON  
Assistant Attorney General

APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney General

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