



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Aubrey Robison
County Attorney, Morris County
Daingerfield, Texas

Dear Sir:

Opinion No. 0-5837

Re: Can the salary of the
County Superintendent of
Morris County be reduced
from \$2000 to \$1800 annually
because of a decrease in
the number of scholastics?

We acknowledge receipt of your letter of
recent date, reading as follows:

"The County Superintendent of Morris
County has asked me to write you for an
opinion concerning his salary.

"The scholastics were well above 3,000
for the year on which he was elected in 1942.
For the present year the scholastics have
dropped below the 3,000 mark, and according
to opinion # 0-1833 rendered by your depart-
ment in 1940, the office of county superintend-
ent will continue for the period for which the
superintendent was elected.

"In the face of this opinion the auditor
for the State Department of Education has re-
duced the salary from \$2000. to \$1800. annually
The County Superintendent has in his possession
a letter written by this same auditor on March
24, 1941, which time this same question exactly
arose, and he ruled as follows:

"This Department has held consistently
for a number of years that the salary of the
superintendent could not be reduced during the
term for the reason that he is elected to the
office upon that basis, and therefore as long
as the incumbent holds the office he is entitled
to the salary at the time he was inducted into
office."

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"The Question to be answered is:

" Can the salary of the County Superintendent of Morris County be reduced from \$2000 to \$1800 annually, because of the drop in scholastics or must it remain at \$2000?"

Replying to the above question you are advised that opinion O-1833 cited by you dealt only with the question of the existence of the office of County Superintendent when the scholastic census falls below 3000, (and certain related questions) but did not deal with the question of the salary of the County Superintendent.

The salary of the County Superintendent is fixed by Article 2700. R.C.S. 1925 which reads as follows:

"The elective County Superintendents shall receive from the Available School Fund of their respective counties annual salaries based on the scholastic population of such counties as follows:

Population	Amount
3000 or less	\$1,800
3000 to 4000	\$2,000
4001 to 5000	\$2,200

". . . .

"In making the annual budget for County Administration expenses the County School Trustees shall make allowance out of the State Available School Fund for salary and expenses of the office of the County Superintendent and the same shall be determined by the resident scholastic population of the county. It shall be the duty of the County Board of Trustees to file the budget for county administration expense with the State Department of Education on or before September first of each scholastic year, the budget to be approved and certified to by the President of the County Board of Education and attested

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to by the County Superintendent. The compensation herein provided for shall be paid monthly upon the order of the County School Trustees; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt from the State Superintendent showing that he has made all reports required of him."

This department, in opinion No. O-4806, held that when the scholastic population is increased from a lower to a higher bracket, the salary of the County Superintendent is correspondingly increased, and we think the same rule should be applied when the scholastic population is decreased.

You are advised that the salary of the County Superintendent of Morris County is \$1800 so long as the scholastic population remains below 3000, but if it should increase in the next or any succeeding census his salary will be correspondingly increased, in accordance with the salary schedule contained in Article 2700...

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED FEB 10, 1944

ATTORNEY GENERAL OF TEXAS

C. F. Gibson

C. F. Gibson
Assistant

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