

CHAPTER 39.

SCHOOL ADMINISTRATION.

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39.01 County superintendent of schools. (1) **ELECTION AND TERM.** A superintendent of schools shall be chosen at the election held in each county on the first Tuesday in April in the year one thousand nine hundred and twenty-nine and every four years thereafter, for the term of four years from the first Monday of July following such election, and shall hold office until his successor shall have qualified, except that in counties having a population of five hundred thousand or more, the county superintendent shall be elected as provided in paragraphs (a) and (b) of subsection (8) of section 5.26.

(2) **ELIGIBILITY.** To be eligible to the office of county superintendent of schools a person must be a resident of the county, have taught 2 years in a rural public school or in a graded elementary school in this state and after July 1, 1944, must hold an unlimited state certificate based on at least 4 years of accredited scholastic training beyond high school, entitling him to teach in any public school; provided that this last requirement shall not disqualify any person who held the office of county superintendent on June 30, 1944.

(3) **SALARY.** The county board, at its annual meeting next preceding the election of such school superintendent, shall fix his annual salary and when so fixed, it shall continue to be the salary of said officer until changed by the board or by operation of law. The salary of county superintendents as fixed by the county boards shall not be less than \$2,000 a year. The county superintendent shall be allowed and shall receive (in addition to his salary) his reasonable, actual and necessary expenses for travel, including travel outside the county when necessary to the performance of his duties, meals and room rent while on travel duty, stationery, mimeographing, postage and printing incurred in or necessary for the proper discharge of the duties of the office. The county board may authorize the county superintendent to travel outside of the state at county expense. The county superintendent shall present itemized monthly statements of that officer's expense to the county clerk. The county board shall make provision for the monthly payment of the county superintendent's salary and expenses.

(4) **DISQUALIFICATIONS.** No county superintendent of schools shall teach or absent himself from the county or engage in any business, profession, occupation or pursuit which will in anywise interfere with the proper discharge of his duties. (Violation of this subsection shall subject the superintendent to removal from office and loss of salary during the time of such violation.)

(5) **CITIES WITH SCHOOL SUPERINTENDENT.** Cities which have a city superintendent of schools shall form no part of the county superintendent's district, shall bear no part of the expense connected with the office of county superintendent of schools; and shall have no part in the determination of any question or matter connected with or arising out of said office, nor shall any elector or supervisor of such city have any voice therein.

(6) **INCOMPATIBILITY OF OFFICES.** The offices of county superintendent of schools and member of the county board of supervisors are incompatible. [1939 c. 291; 1943 c. 392]

Note: Section 39.01 (3), Stats. 1941, generally authorizing the allowance of travel expenses incurred by the county superintendent in the discharge of his duties, covers only expenses incurred by him in visiting the schools within his jurisdiction and for routine travel in connection with the ordinary duties imposed on him by law, and does not authorize the county to reimburse him for expenses incurred in attending conventions of the National Educational Association, as to which no duty was imposed on him by law to attend. Dodge County v. Kaiser, 243 W 551, 11 NW (2d) 348.

The county superintendent was not entitled to compensation from the county for services rendered in delivering a commencement address at the county normal school, since, being a member of the county normal school board, he was prohibited, under

348.28, from entering into such a contract with the board. Dodge County v. Kaiser, 243 W 551, 11 NW (2d) 348.

Unless court determines that constitution fixes term of county superintendent of schools at two years, administrative officials are advised to be guided by the statute fixing term at four years. 20 Atty. Gen. 112. Candidate for office of county superintendent of schools who is resident of city in which school system is managed by city superintendent is eligible to hold such office. 22 Atty. Gen. 172.

Ch. 392, laws of 1943, does not effect immediate increase in salaries of county superintendents of schools to \$2,000. Salary of any present incumbent that is below \$2,000 will continue at that figure unless and until county board raises it. 32 Atty. Gen. 387.

39.02 County superintendent; clerk. The county board may authorize the county superintendent to employ a clerk, and shall fix the clerk's salary, which shall be paid in monthly instalments; and the board may appropriate money to enable the superintendent to employ assistants in examinations for common school diplomas, and may limit their per diem and the total amount to be paid for such assistants.

39.03 County superintendent; duties. (1) **SCHOOL VISITATION, ETC.** The county superintendent shall:

- (a) Provide educational leadership.
- (b) Visit the schools under his administration whenever necessary.
- (c) Inquire into matters relating to the course of study, records, modes of instruction, text-books and discipline of the schools.
- (d) Keep informed upon new techniques and procedures of instruction.
- (e) Advise school boards and teachers as to their powers and duties.
- (f) Make all reports and investigations requested by the state superintendent.
- (g) Certify to joint district clerks the full valuations of the various parts of a joint school district as provided in section 40.11 (9).

(2) **DIRECT SCHOOL BOARD.** He shall direct the school board to make any alterations and repairs which, in his opinion, shall be necessary to the health, comfort or progress of the pupils; and to abate any nuisance upon the school premises, provided the same can be done for twenty-five dollars.

(4) **REPORT TO COUNTY BOARD.** He shall annually report to the county board the condition of the schools under his supervision.

(7) **SCHOOL BOARD CONVENTION.** He may annually hold one or more school board conventions for the purpose of consultation, advice and instruction pertaining to the schools of his county. Each district clerk shall, and the director and treasurer may attend such convention. Each district school officer shall be allowed four dollars for each day's attendance and mileage at the rate of three cents per mile each way (provided his certificate of attendance shall show that he was present at each session of the convention). The county superintendent shall keep a record of the attendance at each morning, afternoon and evening session of the convention, and shall issue to each school officer in attendance, a certificate setting forth his actual attendance, which certificate shall be filed with the school district clerk.

(10) **ADULT CITIZENSHIP DAY.** The county superintendents of schools shall annually provide a county-wide educational program for adult citizenship training for Wisconsin citizens who have attained their majority and for those aliens who have become naturalized within the twelve months immediately preceding the third Sunday of May. Said educational program shall consist of lectures, forums and other forms of instruction, allowing free and frank discussion, and conducted in a nonpolitical, nonsectarian, and nonpartisan manner by qualified leaders selected by public school authorities. Said school authorities shall provide such teachers' institutes as will prepare said leaders to conduct said educational program. Such programs shall meet with the approval of the state department of public instruction. The school boards of any city, town or village, or any school district or school districts maintaining a high school, or any local board of vocational and adult education, or any county board may contract with the university of Wisconsin extension division to conduct said educational program including teachers' institutes and citizenship training. Said educational program shall stress the doctrine of democracy upon which American government is based; duties and responsibilities of public servants, elective and appointive; duties, responsibilities and obligations of voters; organization, function and operation of said government. Said educational program shall be climaxed the third Sunday of May with citizenship day, which shall be designated as the occasion upon which Wisconsin citizens welcome said new voters into the electorate with appropriate ceremony. [1933 c. 212 s. 2; 1933 c. 300; 1937 c. 140; 1939 c. 53, 98; 1943 c. 392; 1945 c. 121, 367]

39.04 County superintendents' conventions. The county superintendent shall annually attend at least one convention called by the state superintendent for the purpose of consultation, advice and instruction pertaining to the public schools. His necessary and actual expenses for such attendance at the most accessible convention shall be paid by the county upon allowance by the county board of proper bills for such expense with the certificate of the state superintendent attached, showing that the claimant attended such convention for the number of days specified in the bill.

39.05 Educational requirement for teachers' certificate. Beginning with the school year of 1939-1940 no certificate to teach in any common school shall be issued unless the applicant shall have completed two years of school work beyond the work of the high school, which shall be devoted to pedagogical instruction and training; provided that the state superintendent of public instruction may grant exemptions from this requirement for the school year of 1939-1940 where teachers with qualifications satisfying this require-

ment cannot be found; provided further, that any teacher who shall have taught in any common school in the school year of 1937-1938 or prior thereto, shall be allowed to continue to teach in the common schools without complying with the requirements of this section. [1937 c. 227; 1939 c. 53]

Note: Section 5, Chapter 53, Laws 1939, repealing provisions relating to teachers' certificates, provides: "Teachers' licenses and certificates in force at the time of the effectiveness of this act (July 1, 1939) shall remain in force for the period for which such licenses and certificates have been issued, unless annulled by the state superintendent for cause." See secs. 14.57 (22) and 39.15, Stats.

39.06 to 39.09 [Repealed by 1939 c. 53]

39.10 [Repealed by 1939 c. 231]

39.11 County superintendents' reports, proceedings thereon. (1) Each county superintendent shall annually and before September 15th submit to the state superintendent a written report as of June 30th containing a list of the districts and schools under his supervision, an abstract of the reports of school district clerks, and such other facts as may be required by the state superintendent.

(1a) Each city and county superintendent shall obtain information from all schools under their jurisdiction regarding those children from birth to twenty-one years of age residing in such school districts who are physically or mentally handicapped and report such information annually to the state superintendent. If a handicapped child is of school age, but is not attending school, the reason for his nonattendance is to be stated on the required reports.

(3) Each county superintendent shall, each year before the tenth of June, forward to each school district clerk the necessary blanks upon which the school census and other facts, required by law, are to be reported.

(4) The state superintendent, on receipt of a satisfactory annual report within the time specified by law, shall issue to the county superintendent who made the report, a certificate setting forth the fact that such annual report has been filed and approved within the time specified therefor by law.

(6) Every county superintendent, who shall fail to make such report to the state superintendent, shall be liable to each school district to the amount which it shall lose by such neglect or refusal with interest to be recovered in an action.

(7) The county superintendent shall send to the clerk of the district, a written report of each personal visit, made by the superintendent, to any school. He shall call the attention of the board to any needed supplies or equipment or needed improvements to the school buildings, outbuildings or grounds. The county superintendent shall send to the district clerk of each school visited by the supervising teacher, a report based on such teacher's report. [1933 c. 212 s. 1; 1937 c. 128 s. 4; 1945 c. 367]

39.12 [Renumbered section 43.20 by 1921 c. 452 s. 8]

39.13 [Repealed by 1923 c. 329 s. 1]

39.14 Supervising teachers. (1) **EMPLOYMENT.** The county superintendent shall employ a supervising teacher, and, if there are more than 120 departments under his supervision, he shall employ 2 supervising teachers. A single room school shall be considered as one department and a multiple room school shall be considered as having as many departments as there are elementary teachers where each has under his individual control, management, direction and instruction, wholly or principally, a collective body of pupils assembled in a room or rooms and such teacher is wholly or chiefly responsible for such control, management, direction and instruction and whose duty it is to keep a complete and special school register for his room or department.

(2) **COMPENSATION.** The county board shall fix the salary of such teacher which shall be not less than the amount each supervisor is entitled to under a schedule set up by the state superintendent of public instruction for ten months in each year as provided in subsection (7). The supervising teacher shall be reimbursed for actual and necessary expenses incurred in the performance of her duties. The county board shall make provision for the monthly payment of her salary and expenses.

(3) **ELIGIBILITY.** A supervising teacher must have taught at least 3 years, one of which was in the elementary schools, and hold a state license to teach based upon 3 or more years of professional training in an accredited teacher training institution. Such training shall contain a minimum of 20 credit hours in elementary education. This requirement shall not act to disqualify any person employed as a supervising teacher at the time this statute is enacted.

(4) **DUTIES.** The supervising teacher shall, under the direction of the county superintendent, supervise and assist the school teachers in her district, devoting special attention to the less experienced teachers; assist in organizing the schools, classifying them according to the work done, and in grading pupils. She shall stimulate interest among the pupils, teachers and parents in agriculture and other subjects pertaining to rural communities and

shall consult and advise with school boards. She shall report weekly to the county superintendent the schools visited, the time spent in each school, the names of school officers she met, the number of pupils enrolled, the number present, her opinion of the order, discipline, grading and spirit of the school, and such other information as may be required by the county superintendent. When the schools are not in session, she shall visit the homes in her district to promote a general educational interest and to increase her personal knowledge of the rural school, its needs and accomplishments and report the same to the county superintendent, and shall perform such other work as the superintendent may direct. She shall annually attend an institute called by the state superintendent, but she shall not be reimbursed for expenses incurred in attending such institute until she shall have filed with the county clerk a certificate of attendance signed by the state superintendent.

(5) REMOVAL. Any supervising teacher may be discharged for cause by the county superintendent after opportunity shall have been given her to be heard.

(6) REPORT OF COST TO COUNTY. The county superintendent shall in July of each year make a report to the state superintendent of the name and qualifications of each supervising teacher employed in the county, the number of months employed, the total amount of her salary and actual and necessary expenses paid during the year ending the preceding June 30th and such other facts as may be required by the state superintendent.

(7) STATE REIMBURSE COUNTY. On receipt of such report, and it appearing from an actual inspection by direction of the state superintendent that the work of such supervising teacher has been efficient, and that she has devoted her time exclusively to the duties of the position, the state superintendent shall certify in favor of the county which employed her, the amount of the salary paid but not to exceed an amount to which such teacher shall be entitled under a salary schedule for supervising teachers to be adopted and promulgated by the state superintendent of public instruction which shall provide for a salary range of from \$1,550 to \$3,000 per year, varying with length of service and professional training. The county shall also be entitled to reimbursement for the actual and necessary expenses paid to her in the year preceding, and file it with the secretary of state, whereupon he shall draw his warrant for the amount of the certificate and in favor of the proper county treasurer. [1933 c. 140 s. 3; 1935 c. 322, 342; 1937 c. 250, 277; 1943 c. 448; 1945 c. 579]

Note: Where county erroneously hires extra supervising teacher, state superintendent can apportion to county salary and expenses of only one supervising teacher. 22 Atty. Gen. 314.

Salaries for supervising teachers set up by state superintendent of public instruction under (2), are to be followed rather than salaries provided by county board. County superintendent has discretion in employing supervising teachers, and this discretion may not be interfered with by county board in providing salaries which meet minimum requirements only in schedule set up under

(2), where county superintendent desires to hire teachers whose qualifications entitle them to higher salaries under schedule. 27 Atty. Gen. 136.

State aid to counties for salaries of county supervising teachers under (7) should be refused where (2) has been violated in fixing such salaries. 27 Atty. Gen. 232.

County superintendents of schools and county supervising teachers are entitled to reimbursement for money expended for meals while on travel duty within county and outside municipality where each maintains respective office. 30 Atty. Gen. 392.

39.15 Teachers' certificates. (1) If any person desires to teach in any of the public schools, or in schools maintained and operated by county homes for dependent children or other county or state institutions or schools in which children are received for care or education, he shall procure a certificate from the state superintendent.

(2) It shall be the duty of every person who contracts to teach in any public school to file in the office of the county or city superintendent within ten days after entering into such contract a statement showing the date of expiration and the grade and character of certificate held. The superintendent shall promptly notify the proper school clerk of the receipt of such statement. No order or warrant shall be issued by the clerk of the school board or board of education in payment of the salary of any teacher, unless such teacher shall have complied with the provisions of this subsection. [1939 c. 53; 1943 c. 83]

39.16 to 39.18 [Repealed by 1939 c. 53]

39.19 Teachers' institutes. (1) The county superintendent of schools may each year conduct one or more institutes for the teachers of his district. There shall be no extra compensation and no expense entailed for such institutes. [1933 c. 140 s. 4; 1933 c. 212]

39.20 [Repealed by 1933 c. 140 s. 1]

39.21 [Renumbered section 39.16 by 1927 c. 425 s. 26]

39.22 [Renumbered section 39.26 by 1927 c. 425 s. 31]

39.23 [Renumbered section 39.17 by 1927 c. 425 s. 27]

39.24 [Repealed by 1939 c. 53]

39.25 [Renumbered section 39.03 by 1927 c. 425 s. 13]

39.26 [Repealed by 1939 c. 53]

39.27 [Repealed by 1939 c. 53]

39.275 [Renumbered section 39.29 by 1927 c. 425 s. 34]

39.276 Industrial arts teachers' certificates. (1) After January 1, 1936, no state license or certificate to teach industrial arts subjects shall be issued to any person who has not had 3 years' practical experience beyond apprenticeship, or who has not had 4 years of institutional training in such fields.

(2) Any person now teaching any industrial arts subject who has had five years' practical or teaching experience in such subject shall be deemed for the purpose of salary schedule and promotion to have the equivalent of a bachelor's degree. [1935 c. 92]

39.28 [Repealed by 1939 c. 53]

39.285 [Renumbered section 39.28 by 1927 c. 425 s. 33]

39.29 [Repealed by 1939 c. 53]

39.30 [Repealed by 1939 c. 53]

39.31 Fees for state licenses and certificates. A fee of two dollars shall be paid to the state superintendent with each application for a license to teach school or for a renewal of such license, or for a state certificate to teach.

39.32 Revocation of state licenses and certificates. Any license or certificate to teach, issued by the state superintendent, may be revoked by that officer for incompetency or immoral conduct on the part of the holder, after written notice to him of the charges and of an opportunity for defense.

39.325 [Repealed by 1927 c. 425 s. 38]

39.33 Inspection of school buildings. (1) The inspectors of common, graded and high schools shall be inspectors of public school buildings under the direction of the state superintendent.

(2) Whenever any county or city superintendent of schools, member of a school board or board of education, or an elector of a school district, or a member of a board of health shall complain in writing to the state superintendent that any building used for school purposes in his district is in such a condition as to endanger the lives or health of the pupils, or that the schoolhouse is otherwise unfit for school purposes, the state superintendent shall investigate the matter.

(3) If the conditions warrant it, the state superintendent shall order the school board or other officers having control of the school to repair and improve or remodel such building, within a stated time, so as to render it safe and sanitary; or if he shall deem the building unfit for school purposes and not worth repairing, he shall state said fact, and shall order the erection of a new building by a stated date; and after said date use of the condemned building shall deprive the district of its right to share in the school fund income.

(4) The state superintendent shall file said order in his office, and shall cause copies thereof to be promptly delivered by mail or otherwise to the clerk of the proper school district and to the proper county or city superintendent and to the clerk of the municipality in which the building is located.

(5) The state superintendent shall, upon the written application of the local school officers, grant a hearing in the matter; pending such hearing, execution of the order shall be stayed till the conclusion of the hearing, and the superintendent may affirm, amend or vacate his original order.

Note: Money appropriated under 20.25 (3) belongs to school fund income; superintendent of public instruction may deprive district of right to share it under 39.33 (3). 24 Atty. Gen. 514.

39.35 Division of county into superintendent districts. The county board of any county having a population in excess of fifteen thousand may divide the county into two superintendent districts (numbered one and two), and may later reunite the county into a single district. When a county is so divided, the district superintendents shall be designated a county superintendent of schools of district one or two, as the case may be. And the laws relating to the office of county superintendent of schools apply to each of such districts.

39.37 Security in employment for teachers in populous counties. (1) The term "teacher" as used in this section means and includes any person except superintendents, assistant superintendents, principals as such, and county supervising teachers, who holds a teacher's certificate, and whose legal employment requires such certificate, who is employed full time and meets the minimum requirements prescribed by the governing body employing such person, and who is employed by any school board, board of trustees or governing body of any school created and existing under chapters 40 and 41 entirely and exclusively in any county having a population of 500,000 or more, excepting schools, vocational and adult schools and teachers' colleges in cities of the first class. Provided, however, that a person who acquired tenure as a teacher under this section shall not be deprived of tenure as a teacher by reason of his employment as a principal.

(2) All employment of teachers as defined in subsection (1) shall be on probation and after continuous and successful probation for 3 years and the gaining of the fourth con-

tract in the same school system or school either before or after July 1, 1944, such employment shall be permanent except as provided in subsection (3) and until discharge for cause. A teacher who has acquired permanent employment by reason of 3 or more years of continuous service as herein provided, upon accepting employment in another school system or school to which this section applies, shall be on probation therein for 2 years and after continuous and successful probation for 2 years and gaining the third contract in such school system or school, such employment therein shall be permanent except as provided in subsection (3) and until discharge for cause.

(3) No teacher who has become permanently employed, as herein provided, shall be refused employment, dismissed, removed or discharged, except for inefficiency or immorality, for wilful and persistent violation of reasonable regulations of the governing body of such school or for other good and just cause, upon written charges based on fact preferred by the governing body or other proper officer of the school system or school in which such teacher is employed. Such charges shall, after 10 days' written notice thereof to such teacher, and within 30 days after receipt of such notice, upon such teacher's written request, be heard and determined by the governing body of the school system or school in which such teacher is employed. Hearings shall be public in all cases when requested by such teacher and all proceedings thereat shall be taken by a court reporter. All parties shall be entitled to be represented by counsel on the hearing. The action and decision of such managing body in any such matter shall be final.

(4) A person employed by a school board during a time of war as a substitute for a teacher on full-time duty in any of the armed forces of the United States or any reserve or auxiliary thereof on leave and notified in writing at the time of employment that the position is of a temporary nature shall not be deemed a teacher under the provisions of this section. In cases where the substitute teacher is not so notified, he shall be given notice in writing on or prior to October 1, 1943.

(5) Whenever it shall become necessary to decrease the number of permanently employed teachers by reason of a substantial decrease of pupil population within the school district the governing board of the school or school system in which such teacher is employed may lay off the necessary number of said teachers but only in the inverse order of the appointment of such teachers. No permanently employed teacher as aforesaid shall be prevented from securing other employment during the period of such suspension. Such teacher shall be reinstated in inverse order of his suspension provided such teacher is qualified to fill the vacancy. Such reemployment shall not result in a loss of credit for previous years of service. No new permanent or substitute appointments shall be made while there are suspended permanent teachers available who are adequately prepared to fill the vacancies.

(6) This section shall not apply to teachers having civil service status under chapter 16 and is not intended to repeal, amend, modify or affect the provisions of sections 37.31, 41.15 (12) and 38.24.

(7) This section shall not apply to any teacher after the close of the school year during which such teacher shall have attained the age of 65 years; any subsequent employment of such teacher shall not be a waiver of the provisions of this subsection. [1943 c. 185]

39.40 [Repealed by 1941 c. 183]

39.45 **Contracts of school teachers.** (1) The term "teacher" as used in this section shall mean and include any person who holds a teacher's certificate issued by the state superintendent of schools or a classification status under the state board of vocational and adult education and whose legal employment requires such certificate or classification status, excepting part-time teachers and teachers employed by any local board of vocational and adult education in any city of the first class and excepting teachers employed by any board of school directors in any city of the first class created and existing under chapter 459, laws of 1907, as amended.

(2) All teachers as defined in this section shall be given written notice of renewal or refusal of his or her contract for the ensuing school year on or before April 1 of the school year during which said teacher holds a contract by the managing body or other proper officer of the school or system in which the teacher is employed. When no such notice is given on or before April 1, the contract of teaching service then in force shall be continued for the ensuing school year. A teacher receiving a notice of renewal of contract for the ensuing year from the employing board or proper officer, or a teacher who does not receive a notice of renewal or refusal of his or her contract for the ensuing school year on or before April 1, shall accept or reject, in writing, such contract no later than April 15 following. No teachers shall be employed or dismissed except by a majority vote of the full membership of the managing body or board. Nothing in this section shall prevent the modification or termination of a contract by mutual agreement of the teacher and the school board. [1943 c. 244]