Establishing the Salary of the County Superintendent

Legal Authority

California Constitution Article 9, Section 3.1 states that the Board “shall fix the salary of the county superintendent of schools.”

Education Code 1042(a) authorizes the Board to “adopt rules and regulations governing the administration of the office of the county superintendent of schools.”

Education Code 1207 states that “in no case will the salary of the county superintendent be lowered during the term of the office.” However, the Board has the authority to decrease the salary of the Superintendent after the election for the term for which the Superintendent was elected. 62 Ops. Cal. Atty. Gen. 356. While the Board has the power to decrease the Superintendent’s salary, it may not do so retroactively; compensation may be decreased only as to those services not yet rendered. 61 Ops. Cal. Atty. Gen. 384.

The Board may select the time and frequency of changing the salary of the Superintendent and is under no duty to set such a salary before an election. 62 Ops. Cal. Atty. Gen. 356.

The obligation to fix the salary of the Superintendent also includes the obligation to identify and fix the benefits of the Superintendent. Since the Superintendent is an elected official, benefits shall not include sick leave or vacation.

Finally, the Board recognizes that in setting the salary of the Superintendent, it is not doing so based on an evaluation of the Superintendent’s job performance. The assessment of the job performance of an elected official is reserved for the electorate.

Implementation of Legal Authority

The Board recognizes its legal obligation to set the Superintendent’s salary and benefits. It is the policy of the Board to authorize a fair and responsible salary for the Superintendent. The process and guidelines for setting such salary are provided for in the accompanying Board Regulation 3340.

Legal References:

California Constitution Article 9, Section 3.1
Education Code 1042(a)
Education Code 1207

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