

CHAPTER 39.

SCHOOL ADMINISTRATION.

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39.01 County superintendent of schools. (1) **ELECTION, TERM, DISTRICTS.** (a) A superintendent of schools shall be chosen at the election held in each county on the first Tuesday in April in the year 1929 and every 4 years thereafter, for the term of 4 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 500,000 or more, the county superintendent shall be elected as provided in 5.24 (2).

(b) The county board of any county having a population in excess of 15,000 may divide the county into 2 superintendent districts (numbered 1 and 2), 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 1 or 2, as the case may be. And the laws relating to the office of county superintendent of schools apply to each of such districts.

(1a) **SUPERINTENDENT FOR SEVERAL COUNTIES.** The county boards of 2 or more counties may by the adoption of a joint resolution employ one superintendent of schools for their counties. Such joint resolution shall be filed with their respective county clerks and the state superintendent of public instruction before January 1 of the year in which an election for county superintendent of schools is to be held. Such filing of the joint resolution shall terminate the position of county superintendent of schools, in the adopting counties, at the end of the existing term. The resolution shall state that the position of superintendent of schools for the counties of is created to become effective on July, 19. . and that the election for that office shall be for superintendent of schools for the counties of The laws relating to the office of county superintendent of schools shall apply to such superintendent of schools except that nomination papers shall be filed with the secretary of state and the salary and expenses of such position shall be prorated by the county boards.

(2) **ELIGIBILITY.** (a) To be eligible to the office of county superintendent of schools a person must 1. be a resident of the county 2. have taught 2 years in a rural public school or in a graded elementary school 3. be the holder of any degree from any college or university and 4. must hold a life certificate. Qualification requirements provided by this amendment (1951) shall not apply to any person holding the office of county superintendent on June 15, 1951.

(b) Any candidate for the office of county superintendent of schools shall file with the proper county clerk or clerks a statement approved by the state department of public instruction confirming his qualifications establishing eligibility for candidacy for election to and occupancy of the office of county superintendent of schools as a condition precedent to having his name placed on the ballot. The requirement of the filing of this statement shall apply to write-in candidates before the board of canvassers of election shall issue a certificate of election.

(2b) **ACTING SUPERINTENDENT.** When it appears that a county superintendent of schools, because of illness or other incapacity, is unable to perform the duties of his office, the county judge shall, upon the request of the state superintendent of public instruction, make determination of such question. If the county judge finds that the county superintendent of schools is unable to perform the duties of his office, he shall certify such fact to the state superintendent of public instruction, who shall thereupon appoint a person to perform the duties of the office with the title of "acting superintendent." The duties of acting superintendent shall cease when the county judge notifies him and the state superintendent of public instruction that the county superintendent of schools is able to

resume the duties of the office. The county board may compensate such acting superintendent in an amount agreed upon by the county board and the acting superintendent.

(3) **SALARY.** The county board, at its annual meeting next preceding the election of such school superintendent, shall fix his 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 \$3,000 a year but in counties or county superintendent districts which contain 70 or more teachers under such superintendent's jurisdiction, the minimum salary shall be not less than \$4,000 per year. Additional compensation may be provided the county superintendent by the county board both for the performance of his regular duties and for his work as secretary of the county school committee. Compensation for additional duties may be authorized by the county board at any time during his term of office. Such minimum salary shall apply to salaries paid to the county superintendents after July 2, 1952. 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, 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 his 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.

History: 1951 c. 334, 691, 695.

A person elected after July 1, 1944, must have had the specified teaching experience as well as the specified certificate. Unlicensed, and unauthorized teaching is not considered in the qualifications of the teacher for an office which has a teaching prerequisite. State ex rel. Schmidt v. Krull, 257 W 184, 43 NW (2d) 241.

See note to 40.56, citing 39 Atty. Gen. 356. Ch. 561, Laws 1949, authorizes county board to grant additional compensation to county school superintendent, effective dur-

ing the current term. 39 Atty. Gen. 529.

If a joint school district embraces all the territory of a city, even though the city has never organized a city school system under 40.50 and the district employs a superintendent to supervise and manage the school under the direction of the employing board, then the property therein is not to be taxed for the compensation and allowances of the county superintendent of schools. 39 Atty. Gen. 542.

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).
- (h) Perform such services as the boards of education and superintendents of city school districts and of districts which employ a superintendent under the provisions of section 40.43 may request on a contract basis.

(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 \$6 for each day's attendance and mileage at the rate of 6 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.

History: 1951 c. 277, 695.

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 requirement 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.

[39.06 to 39.09 Stats. 1937 repealed by 1939 c. 53]

[39.10 Stats. 1937 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.

[39.12 Stats. 1919 renumbered section 43.20 by 1931 c. 452 s. 8]

[39.13 Stats. 1921 repealed by 1923 c. 239 s. 1]

39.14 Supervising teachers. (1) **EMPLOYMENT.** (a) The county superintendent in the name of the county shall contract with a supervising teacher, and, if there are more than 120 departments under his supervision, he shall employ 2 supervising teachers. The contract shall provide for a leave of absence for the supervising teacher by reason of actual personal sickness, without deduction from salary of such teacher at the rate of at least 5 days per year and accumulation of 30 days of unused sick leave from year to year. Any county that was entitled to employ 2 supervising teachers during the school year 1945-1946 shall continue to be entitled to employ that number until such time as the number of departments shall drop below 100. 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.

(b) Determination of the number of supervising teachers which the county superintendent shall employ for any given school year shall be made on the basis of the number of teachers employed on March 15 of the preceding school year.

(c) The county superintendent may employ supervising teachers in addition to those provided for by paragraph (a) in such number as may be approved by the county board. Such appointments shall be governed by the provisions of subsections (1) to (5) but subsections (6) and (7) shall not be applicable.

(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 4 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, and a minimum of 6 hours credit in elementary school supervision. 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 attend institutes and conferences 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 \$3,000 to \$4,500 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 director of budget and accounts, whereupon he shall draw his warrant for the amount of the certificate and in favor of the proper county treasurer.

History: 1951 c. 477.

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.

[39.16 to 39.18 Stats. 1937 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.

[39.20 Stats. 1931 repealed by 1933 c. 140 s. 1]

[39.21 Stats. 1925 renumbered section 39.16 by 1927 c. 425 s. 26]

[39.22 Stats. 1925 renumbered section 39.26 by 1927 c. 425 s. 31]

[39.23 Stats. 1925 renumbered section 39.17 by 1927 c. 425 s. 27]

[39.24 Stats. 1937 repealed by 1939 c. 53]

[39.25 Stats. 1925 renumbered section 39.03 by 1927 c. 425 s. 13]

[39.26 Stats. 1937 repealed by 1939 c. 53]

[39.27 Stats. 1937 repealed by 1939 c. 53]

[39.275 Stats. 1925 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.

[39.28 Stats. 1937 repealed by 1939 c. 53]

[39.285 Stats. 1925 renumbered section 39.28 by 1927 c. 425 s. 33]

[39.29 Stats. 1937 repealed by 1939 c. 53]

[39.30 Stats. 1937 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 Stats. 1925 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.

[39.35 Stats. 1949 renumbered section 39.01 (1) (b) by 1951 c. 695]

39.37 Security in employment for teachers in populous counties. (1) The term "teacher" as used in this section means and includes principals and any person except superintendents, assistant superintendents 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. 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) except employment as principals shall be on probation and after continuous and successful probation for 3 years and the gaining of the fourth contract 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. Employment of principals shall be on probation and after continuous and successful probation for 3 years and the gaining of a fourth contract in the same school system or school either before or after July 1, 1948, 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.

[39.40 Stats. 1939 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.