

## Opinion No. 16-1901

November 16, 1916

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Hon. Alvan N. White, Superintendent of Public Instruction, Santa Fe, New Mexico.

**Limitation of salaries of teachers found in Section 5, Chapter 79, Laws of 1915, applicable only to rural school districts.**

### OPINION

{\*443} I have received your letter of even date herewith, in which you ask my opinion on two questions, the first of which is as to the refusal of a county treasurer to pay any school warrant for the superintendent and principal of the county high school where fifteen teachers are employed for more than \$ 90 monthly salary, for the reason that the teacher does not hold a higher form of certificate than the state elementary first grade, or even if he did have a higher form of certificate, his salary is limited to \$ 90 per month by the provisions to be found in Section 5 of Chapter 79 of the Laws of 1915.

There is no such limitation to be found in that section. The limitations therein fixed are applicable only to rural school districts where no graded school is maintained and it is not a limitation upon the amount of salary, but for all expenses including the salary, except the construction, purchase, lease, repair or equipment of school houses, and the limitation is as to expenses for each school room. Any current expenses aside from those which are excepted, as above stated, must come out of the amounts limited so that those amounts cannot be all devoted to salary if there are any other expenses. A county high school, whether located in a rural district or in a municipal district, is certainly a graded school and as to graded schools, I agree with you that there is no limit of expenditures except what can be found in the estimate of funds necessary which must be finally approved by the board of county commissioners.

Your other question is as to whether the holder of a third grade certificate can draw in excess of \$ 50 per month as salary when employed in a school of four or more rooms. As above indicated, the \$ 50 limit is not a limit upon the salary, but a limit upon the expenses per room and that limit is \$ 60 per month per school room in which a teacher holding a third grade certificate is employed. I see no {\*444} reason why a teacher may not be paid more than \$ 60 in such a school with four or more rooms, provided that the expenses for each of the four rooms, including salary, be kept down to the limits fixed in said Section 5.