

## **SETTING THE COUNTY SUPERINTEDEDENT'S SALARY**

### Legal Authority

The Monterey County Board of Education (County Board) relies on a number of regulatory and legal proclamations to substantiate its authority to fix the salary of the Monterey County Superintendent of Schools (County Superintendent) namely:

1. Article IX, Section 3.1 (b) of the California Constitution – “Notwithstanding any provision of this Constitution to the contrary, the county board of education or joint county board of education, as the case may be, shall fix the salary of the county superintendent of schools.”
2. The County Board may select the time and frequency of changing the salary of the County Superintendent and is under no duty to set such a salary before an election. [62 Ops. Cal. Atty. Gen. 356]
3. Education Code section 1207 – “In no case will the salary of the county superintendent be lowered during the term of his [sic] term of office... or for any consecutive new term to which he is elected or appointed.”
  - a. Notwithstanding Education Code section 1207, the County Board has the authority to decrease the salary of the County Superintendent after the election for the term for which the County Superintendent was elected. [62 Ops. Cal. Atty. Gen. 356]
  - b. While the County Board has the authority to decrease the County 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]
4. Education Code section 1209 – “A county superintendent of schools shall not increase his or her salary, financial remuneration, benefits, or pension in any manner or for any reason without bringing the matter to the attention of the county board of education for its discussion at a regularly scheduled public meeting and without the approval of the county board of education.”

### Salary Setting Guidelines

The County Board recognizes its legal obligation to set the County Superintendent's salary and benefits. It is the County Board's policy to authorize a fair and reasonable salary for the County Superintendent. The process and guidelines for setting such salary are:

1. Salary comparison with the county superintendents in the same class three (3) counties.
2. Salary comparison with the four (4) largest district superintendents and the two (2) community college presidents in the county.
3. The extent to which the County Superintendent provides the appropriate guidance and advice to the County Board in order for the County Board to perform its authorized responsibilities as outlined in the law and County Board policies.

The County Superintendent's compensation package may include the current and subsequent benefits, which are granted to management employees of MCOE.

The County Superintendent may also receive the following additional benefits including:

1. The use of an MCOE provided automobile for official duties in compliance with the law
2. An MCOE credit card to be used in connection with his/her official duties.
3. A mobile device allowance, such as a smart phone, for integrated personal and business use.

#### The Process

1. The County Board President shall appoint a "Compensation Subcommittee" at the first regularly scheduled County Board meeting in August to consider adjusting the salary of the incumbent County Superintendent who is beginning a new term in office or to establish the salary for a newly elected County Superintendent. The Subcommittee shall consist of no more than three (3) County Board members. At the same time, the staff will be asked to provide the comparable salary information as outlined in the Salary Setting Guidelines listed above.
2. The Subcommittee shall finalize its recommendations no later than the first meeting in November.
3. The Subcommittee's recommendation to the County Board shall be made in open session. The County Board's decision shall be implemented as ordered.
4. If any of the above dates prove to be impractical, they may be adjusted by the County Board President.
5. At the request of the County Superintendent or a member of the County Board, the County Board President may appoint a "Compensation Subcommittee" to review the County Superintendent's salary in conjunction with any cost of living adjustments granted to MCOE employees.

#### County Superintendent Vacancy During a Term of Office

Should there be an appointed County Superintendent who is filling a vacancy during a term of office, the County Board President shall appoint a "Compensation Subcommittee" to recommend a salary and benefit package to the County Board.

*Legal Reference:*

EDUCATION CODE

1040 et seq. Duties and responsibilities of the county board of education.  
1207 Limitations on reducing an incumbent County Superintendent's salary  
1209 County Board approval necessary to increase the County Superintendent's salary  
1240 et seq. Powers and duties of the county superintendent  
1980 County community schools; administration and operation  
48645.2 Juvenile court schools; administration and operation  
48660 et seq. Community day schools; administration and operation

COUNTY BOARD POLICIES

BP 2110 Duties of the County Superintendent

CALIFORNIA CONSTITUTION

Article IX, Section 3.1 (b)

ATTORNEY GENERAL'S DECISIONS

61 Ops. Cal. Atty. Gen. 384, 1978

62 Ops. Cal. Atty. Gen. 356, 1979

Adopted: 11/2/88

Revised: 4/5/89; 4/3/91; 3/01/00; 10/02/02; 10/15/14