

## **County Superintendent's Compensation**

The California Constitution, Article IX, Section 3.1(b) empowers the County Board of Education to fix the compensation of the County Superintendent of Schools at a time and in an amount determined by the County Board of Education.

It shall be the policy of the Yolo County Board of Education that determination of the Superintendent's annual compensation may consider the anticipated COE annual budget and the percent increase (awarded to) County Office of Education classified, certificated and administrative personnel, subject to the requirements of California Education Code Section 1207.

**Legal Reference:**

California Education Code § 1207

**ADOPTED:** April 27, 1992

**REVISED:** 08/19/99, 11/09/06

## **Process for Setting Superintendent's Compensation (to be reviewed annually)**

The California Constitution, Article IX, Section 3.1(b) empowers the County Board of Education to fix the compensation of the County Superintendent of Schools at a time and in an amount determined by the County Board of Education. The following protocol and criteria may serve as guidelines for the Board and Superintendent, it being understood that the Board reserves its plenary authority to establish the Superintendent's Total Compensation. Throughout this process, the County Board of Education shall be mindful of its fiscal responsibility to the public; and act in the best interest of the Yolo County Office of Education, the students served by the county office and the broader community context.

### **A. Protocols and Criteria Guidelines**

1. The Board will annually review the Superintendent's Total Compensation for purposes of considering an adjustment for the fiscal year. Any adjustment may be retroactive to be in line with the Fiscal Year.
2. A Compensation Committee of two (2) Board Members shall be appointed annually at the Organizational Meeting in December in order to conduct the review, confer with the superintendent regarding total compensation and develop a recommendation to present to the Board for consideration.

This annual review may include the following data:

- Total Compensation cost for Superintendents within like County Offices of Education.
- Total Compensation cost for district Superintendents within the Yolo County boundaries.
- Total Compensation cost for County of Yolo Officials responsible for similar sized County departments or agencies.
- Information on the change in total compensation for YCOE employee groups including recognition of discrete pay increase amounts in addition to percentages, including the cost of step and column and medical benefits.
- Context of the County Office of Education annual budget(s).
- Applicable Cost of Living Indexes.

- Other criteria or information that the Committee may consider relevant to the Board's decision and wish to submit for the Board's consideration.
3. Every four years, in the final year of the incumbent's term, the Superintendent's Compensation Committee shall complete a comprehensive study of the Superintendent's Total Compensation which study shall be presented to the Board. During the years where a comprehensive survey is completed the following information will be gathered from the jurisdictions listed above in number A(2) and will be compiled. The Committee may establish additional criteria for data to be collected for the comprehensive study. The Compensation Committee may choose to recommend to the Board, and the Board may adopt a total compensation range for the Office of County Superintendent for the upcoming term.

#### B. Board Action

1. A preliminary discussion of Total Compensation for the Superintendent will take place before the entire board. This item will be placed on the Board Agenda before any recommended package is presented by the Compensation Committee.
2. Recommended compensation package is initially presented by the Compensation Committee to the County Board as a discussion Agenda item. The Compensation Committee shall provide a report to the Board annually whether or not it recommends a change in compensation.
3. The Superintendent's Total Compensation package recommended by the Compensation Committee is presented to the County Board as an Action Agenda Item. Board action shall be taken whether or not there is an adjustment in compensation.

#### C. Setting Salary for New Superintendent

In a year wherein the incumbent Superintendent is not running for re-election, no later than the date of election for County Superintendent of Schools, the Board, after receiving a report and recommendation by the Board Compensation Committee, shall establish a total compensation and may establish a range for the office of County Superintendent for the upcoming four year term. Once the identity of the new Superintendent is known, the

Committee shall confer with him or her as part of preparing a recommendation. The Board shall receive the Committee's report and recommendation and set the starting total compensation for the new Superintendent.

The Board shall strive to reach the decision regarding the new Superintendent's compensation not later than adjournment of the October meeting of the Board.

Thereafter, the salary will be annually reviewed and set by the Board, as set forth in parts A and B above.

Regulation: August 19, 1999  
Approved: September 23, 2014

**YOLO COUNTY OFFICE OF EDUCATION**  
Woodland, California

3% increase

YOLO COUNTY SUPERINTENDENT SALARY COMPARISON  
2017-18

effective 7/1/2018

	DAVIS	ESPARTO	WASHINGTON	WINTERS	WOODLAND	DISTRICT AVERAGE	YCOE DIFFERENCE
Annual Salary	\$221,450	\$184,371	\$196,029	\$171,528	\$224,180	\$199,518	(\$26,968)
Work Days	225	246 (+25 vacation/ +15 holidays)	220 (+25 vacation/ +16 holidays)	225	260		
Degree Stipend	\$1,900	\$1,962	\$800	\$3,000	\$0	\$1,452	\$548
Tax Sheltered Annuity	\$0	\$0	\$0	\$300	\$0	\$60	(\$60)
Annual Health Benefits Cap Employer Paid	\$5,900	\$6,900	\$12,067	\$10,048	\$6,480	\$8,279	(\$779)
Employer paid STRS	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Professional Dues	ACSA, CASPO, 2 Community Organizations	ACSA	ACSA, AASA	ACSA, CASPO	none		
Other *	\$2,500	\$0	\$6,000	\$6,000	\$0	\$3,020	

TOTAL COMP without Health Ins.	\$225,450	\$186,333	\$202,829	\$181,458	\$224,180	\$204,050	(\$28,300)
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TOTAL COMP with Health Ins.	\$231,350	\$193,233	\$214,896	\$191,506	\$230,660	\$212,329	(\$29,079)
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\* Cell Phone Stipend \*Transportation Stipend \*Car Allowance

Esparto information current as of October 2017.

5/4/2018

Class IV - County  
30,000 - 59,999 ADA

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 1. General  
Division 4. Public Officers and Employees (Refs & Annos)  
Chapter 1. General  
Article 8. Miscellaneous

West's Ann.Cal.Gov.Code § 1235

§ 1235. Salary for elected public office; reduction during election year

Currentness

<Section added by Stats.1980, c. 737, § 1. See, also, another section  
of the same number, added by Stats.1994, c. 991 (S.B.1882), § 2.>

The salary of any elected public office shall not be reduced during an election year after any candidate for that particular office has filed the requisite forms declaring his or her candidacy for that particular office.

Credits

(Added by Stats.1980, c. 737, p. 2203, § 1.)

West's Ann. Cal. Gov. Code § 1235, CA GOVT § 1235

Current with urgency legislation through Ch. 187 of 2014 Reg.Sess., Res. Ch. 1 of 2013-2014 2nd Ex.Sess., and all propositions on the 6/3/2014 ballot.

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David W. Girard  
Heather M. Edwards  
Michael Tucker  
Eric E. Stevens  
Kyle A. Raney

*Of Counsel*  
William M. Wright  
Carol L. Fallon  
L. Thomas Newcomb

**GIRARD  
& EDWARDS**  
ATTORNEYS AT LAW

www.girardedwards.com

8801 Folsom Blvd., Suite 285  
Sacramento, CA 95826  
Tel: (916) 706-1255  
Fax: (916) 706-2672

*Placerville Office*  
6767 Green Valley Road  
Placerville, CA 95667  
Tel: (530) 295-2235  
Fax: (530) 642-1832

**MEMORANDUM**

**Attorney Client Privileged Communication  
Attorney Work Product**

Date: August 20, 2014  
To: Bill Owens, President  
Yolo County Board of Education  
From: Heather M. Edwards  
Attorney at Law  
Subject: County Superintendent Salary

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**ISSUES**

Under what circumstances may a county board of education fix the salary for a newly elected county superintendent?

**CONCLUSIONS**

With the possible limited exception of not having authority to decrease a county superintendent's salary during an election year, county boards of education have broad authority to either increase or decrease a county superintendent's salary at any time.

**DISCUSSION**

**I. County Boards of Education Have Broad Constitutional Authority to Fix the Salary of the County Superintendent.**

The California Constitution provides broad authority for county boards of education to "fix" the salary of county superintendents of schools. Specifically, California Constitution, Article IX, Section 3.1(b) states as follows:

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 or the joint county superintendent of schools, respectively.

This provision was added to the Constitution in the November 1976 General Election through approval of Assembly Constitutional Amendment 77.

**II. Education Code Section 1207, Which Prohibits Lowering A County Superintendent's Salary During His/Her Term Of Office, Has Been Determined To Violate the California Constitution And Be Void.**

Education Code Section 1207 (Stats. 1976, c. 1010, §2, operative April 30, 1977) provides, in pertinent part, as follows:

...In no case will the salary of the county superintendent be lowered during his term of office. The salaries set forth in Section 1213<sup>1</sup> are payable to incumbent county superintendents of schools; provided, however, that the salary of an incumbent shall not be reduced during the term for which he was elected or appointed or for any consecutive new term to which he is elected or appointed.

**A. County Boards of Education Have Broad Authority to Both Increase and Decrease the County Superintendent's Salary. However, County Boards May Not Decrease Salary Retroactively.**

In 1978, the Attorney General analyzed the effect of the California Constitution Article IX, Section 3.1(b) stating:

1. "The amendment as adopted effectively transferred responsibility for fixing superintendents' salaries from the Legislature to the respective county and joint county boards of education..."
2. "By adopting section 3.1 subdivision (b) of Article IX the voters quite clearly intended to commit the entire responsibility for fixing county superintendent's salaries to the respective county boards of education."
3. "It is well established that such a grant of power to "fix" salaries is plenary; the authority to both increase and decrease compensation is therefore implicit (emphasis supplied)."
4. "It is equally certain that Education Code section 1207 cannot operate to circumscribe the plenary power which section 3.1 subdivision (b) of Article IX grants. To the extent that it purports to limit county boards' constitutionally vested discretion to decrease salaries, it is preempted and therefore void."
5. "We note in this regard, however, that section 1207 was enacted pursuant to a massive and largely cosmetic reorganization of the Education Code

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<sup>1</sup> Repealed by Stats. 1987, c. 1452.



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[references omitted]. It is therefore not unreasonable to assume section 1207 is merely the product of legislative oversight.”

(61 Ops. Cal. Atty. Gen. 384, August 24, 1978).

The Attorney General concluded that “a county board of education has the power to decrease a superintendent’s compensation...” but “...only for those services not yet rendered.” *Id.* In other words, a county board of education may not *decrease* a county superintendent’s salary *retroactively* and thus deprive the superintendent of matured contractual rights for past services rendered. While opinions of the Attorney General are not controlling statements of law, courts generally give them “great weight” in determining the meaning of statutes. *See, e.g., Freedom Newspapers, Inc. v. Orange County Employees Retirement System*, 6 Cal.4th 821, 829 (1993).

In addition, in a 1979 opinion to the County Counsel of Stanislaus County regarding county board authority to fix the salary of the county superintendent of schools, the California Attorney General concluded as follows:

1. The county board of education has the power to decrease the salary of a county superintendent of schools after the election for the term for which the superintendent was elected.
2. The county board of education may select the time and frequency of changing the salary of a county superintendent of schools, irrespective of whether the incumbent was elected or appointed, and is under no duty to set such a salary before an election.
3. The county board of education is not required to fix the salary of a county superintendent prior to the time of determining the filing fee for filing nominating papers for the elective position of superintendent.
4. A county is not required to return a difference in filing fees of the salary upon which the filing fee for the position of county board of education was based is reduced after the election.

(62 Ops. Cal. Atty. Gen. 356, July 11, 1979).

Thus, in finding Education Code Section 1207 void, the California Attorney General affirms the broad power county boards have to fix the salary of county superintendents.

### **III. Government Code Section 1235 Provides Possible Limitation On County Board Authority To Decrease County Superintendent Salaries During Election Years.**

In 1980, Section 1235 was added to the Government Code related to salaries of public officers. (SB 1265, Stats. of 1980, Chap. 737). Section 1235 provides that:

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The salary of any elected public official shall not be reduced during an election year after any candidate for that particular office has filed the requisite forms declaring his or her candidacy for that particular office.

It could be argued that Government Code section 1235 imposes a restriction on the constitutional power of county boards of education to fix the salary of the county superintendent of schools. That is, by its terms, an elected public official, presumably including county superintendents, may not have his/her salary reduced "during an election year" after "any candidate for that particular office has filed".

Presumably, the term "election year" refers to the entire calendar year in which the election occurs and not simply the time ending on the date in which the election outcome is determined. If so, Section 1235 would appear to prohibit a county board from decreasing the salary for the office of a county superintendent any time after any candidate for that office has filed. Moreover, said salary could not be reduced at any time during the calendar year during which the election for county superintendent took place.

However, it is not entirely clear that Section 1235 applies to elections involving county superintendents, since California Constitution, Article IX, Section 3.1(b) specifically grants county boards plenary power to fix the salary of "the county superintendent of schools" as contracted with the more general language of Section 1235 which refers to a "public official".

Further, analysis of Government Code Section 1235 seems to present many of the same Constitutional infirmities as did Education Code Section 1207.

First, every statute must be construed in the light of constitutional restrictions upon the power of the legislature and a statute inconsistent with the California Constitution is void. *Wines v. Garrison*, 190 Cal. 650, 214 P. 56, 26 A.L.R. 1302 (1923), *Hotel Employees and Restaurant Employees Intern. Union v. Davis*, 21 Cal. 4th 585, 88 Cal. Rptr. 2d 56, 981 P.2d 990 (1999). Generally, enactments should be interpreted when possible to uphold their validity. Thus, all presumptions and intendments favor the validity of a statute. *Habitat Trust for Wildlife, Inc. v. City of Rancho Cucamonga*, 175 Cal. App. 4th 1306, 96 Cal. Rptr. 3d 813 (4th Dist. 2009), *In re Noreen G.*, 181 Cal. App. 4th 1359, 105 Cal. Rptr. 3d 521 (1st Dist. 2010)

However, when two statutes relate to the same subject, ordinarily, the more specific and particular provision will govern as against the more general provision although the latter standing alone is broad enough to include the subject addressed by the more particular provision. *Murray Co. v. California Occupational Safety and Health Appeals Bd.*, 180 Cal. App. 4th 43, 102 Cal. Rptr. 3d 513 (2d Dist. 2009).

In the present situation, the California Constitution provision is far more specific than Government Code section 1235. It is aimed specifically at fixing the salary for the office of the Superintendent of Schools as opposed to an "elected public official".

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Second, in interpreting or construing a statute, courts will look to ascertain and effectuate legislative intent. *Laurel Heights Improvement Association v. Regents of U.C.* (1993) 6 Cal.4th 1112, 1127.

Here, a review of the legislative history of Government Code section 1235 revealed that:

1. Senator John Nejedly, author of the legislation, stated in a letter to Governor Edmund G. Brown dated July 18, 1980 that the reason for the bill was due, "in part, to an incident in which the Contra Costa County Board of Supervisors reduced the salary of a newly elected Superintendent of Schools after an election but prior to his taking office."
2. The Legislative Analyst expressly noted that Article III, Section 4 of the California Constitution prohibits reducing salaries of state officers during their terms of office and concluded that the bill would not affect the salaries of state officials because the term of a person elected to state office does not begin until the year following the election.
3. The bill was necessary to prevent the salary of elected public officers from being reduced as a means to politically discourage candidates for such office. Specifically, this legislation was in response to a situation where a person was elected to an office over the incumbent. The incumbent was instrumental in reducing the salary of the position he vacated.
4. The bill does not prevent a local governing body from reducing the salary after the person takes office.

There is no mention in the legislative history of Government Code Section 1235 of the provision of the California Constitution Art. IX, Section 3.1 specifically authorizing county boards of education to fix the salary of county superintendents, nor does our research disclose any judicial or Attorney General decision or opinion regarding the interpretation or constitutionality of Section 1235. Moreover, the incident giving rise to the enactment of this legislation was related to a county board of supervisors reducing the salary, not a county board of education. In addition, similar to the state officials mentioned in the legislative history, the term of a person elected to the office of county superintendent of schools does not begin until the year following the election.

Therefore, while it cannot be said that Section 1235 unequivocally limits county boards of education authority to decrease the salary for the office of a county superintendent during an election year, it would seem the most conservative and prudent course of action for county boards of education to not reduce the salary of a newly elected county superintendent until after the election year.