

OPINION  
47-103

January 13, 1947 (OPINION)

EDUCATION

RE: County Superintendent Qualifications

This is in reply to your letter of January 9, relative to a situation in Adams County.

It appears that Alvina M. Cook, county superintendent at the time, received a sufficient number of "write-in votes" to entitle her to a certificate of election, but she has declined to qualify. The county commissioners considered the appointment of a county superintendent on December 26, but were unable to find any person with the qualifications required by law who would accept the office. Now Marie E. Roberts of Hettinger, North Dakota, has agreed to accept the appointment, if the superintendent of public instruction will approve her qualifications.

Mrs. Roberts is not a college graduate, but has had one year of college work. At the time she attended college, the one year's attendance entitled her to a second grade professional certificate which is valid for two years. She graduated from Dickinson State Teachers' College in 1923, from what was then called the one-year course. Her certificate was renewed for five years, but was not renewable thereafter. At the present time, she has no valid teacher's certificate, but has been appointed as acting county superintendent of schools of Adams County for the term beginning January 6, 1947. You desire an opinion as to whether or not Mrs. Roberts may legally serve as county superintendent or acting county superintendent.

Strictly speaking, under the law, Mrs. Roberts is not qualified to hold the office of county superintendent. However, a real emergency exists in Adams County. It is not advisable to close the office of county superintendent of schools and, since a person who has the technical legal qualifications cannot be found, we believe that the county commissioners would have authority to appoint a person as acting superintendent until such a time as a person having the qualifications will consent to accept the office.

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