

OFFICIAL OPINION NO. 43

June 9, 1953.

Hon. Wilbur Young,  
State Superintendent of Public Instruction,  
227 State House,  
Indianapolis, Indiana.

Dear Mr. Young:

We have your request for an official opinion which is as follows:

“With reference to Chapter 36 of the Acts of 1953, concerning the multiple adoption of textbooks, the Textbook Commission of the Indiana State Board of Education has asked that I request an official opinion on the following questions:

“Question 1. Since it will be necessary to adopt textbooks for short periods of one, two, three or four years, prior to the effective date of each given subject field, may an adoption be made for more than the usual five-year contract period, prior to the effective dates, thereby implementing the Act and eliminating short-time contracts which are both uneconomical and undesirable as far as the school administrator and the school patrons are concerned?

“Question 2. If an adoption can be made and a contract issued for more than the usual five-year period, is it mandatory that the Textbook Commission adopt a valid rule in accordance with Chapter 120 of the Acts of 1945?”

Your first question is specifically answered in the Acts of the General Assembly of 1953, Chapter 36, Sections 2, 3, 5, 6 and 7, hereinafter designated as 6, 6a, 6c, 10 and 11, which are in part as follows:

“SEC. 6. Section 6 of the above entitled act is amended to read as follows: Sec. 6. All contracts entered into under the provisions of this act shall be for a period of five years and the board shall on or before December 15 of each year make adoptions and

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enter into contracts for any and all subjects and grades for which contracts will expire in the next succeeding calendar year, *except as hereinafter provided in Sections 6a, 6b, and 6c of this act.*"

"SEC. 6a. \* \* \* Regardless of *any provisions of any other section of this act, or of any other act, to the contrary*, the board shall adopt and contract for textbooks, of the following classifications, as follows: \* \* \*. It is the stated *intent* that the foregoing shall require such adoptions and contracts during each of such stated years and each of such adoptions and contracts shall become effective on July 1 of the year following such indicated requirements for adoption."

"SEC. 6c. \* \* \* All adoptions of textbooks heretofore made by said board on or before December 15, 1952, for the purpose of executing contracts thereon to be effective July 1, 1953, are *hereby ratified and shall continue* for the period of such adoptions. Hereafter said board shall *before December 15*, of each year adopt and contract for textbooks in all such subjects for which present contracts will expire prior to the respective dates heretofore set out in Sections 3 and 4 known as Sections 6a and 6b of this act, but such *latter adoptions* shall be *for only the required period of time* required so that the same coincides with the dates specified in said Sections 3 and 4 of this act.

"The provisions of Sections 6a, 6b and 6c of this act shall *supersede the other provisions of this act*, as originally enacted, only to the *extent of any conflict therewith*, and all adoptions herein required shall be made in conformity with the provisions of this act as originally enacted except as herein otherwise specifically stated."

"SEC. 10. \* \* \* Provided, That such elections shall be for an *initial period of five years* and may be continued thereafter so long as such textbook shall be deemed by them to be satisfactory and so long as they are on the state approved list, except as provided in section 6 (c) of this act: \* \* \*."

“SEC. 11. \* \* \* Provided, further, *That in the event adoptions are made by said board for a lesser period than five years under section 6c of this act the period of time for which such notes of a school corporation may be issued for such textbooks shall be limited to the period of time indicated in such restricted adoption.*” (Our emphasis.)

From the above quoted excerpts of Chapter 36 of the Acts of the General Assembly of 1953 it is to be noted that although there is an express provision for the adoption of a contract for less than five years (Section 11, *supra*) there is no provision for the adoption of a contract for longer than five years. On the contrary it specifically provides that all contracts entered into shall be for a period of five years except as provided in the new sections of the act which are 6a, 6b and 6c which are expressly stated to supersede all other provisions of the act *only to the extent of any conflict therewith.*

The provision in the 1953 amendment dealing with the adoption of a contract for a term of five years was reenacted from the 1945 Acts of the General Assembly, Chapter 243, the same being Burns' Indiana Statutes Annotated, Section 28-671.

It is therefore my opinion that:

1. An adoption may not be made for more than the usual five year contract period subject however to an extension of renewal of the contract at the end of said five year period.
2. By virtue of the fact that no contract can be made for a longer period than five years, it will not be necessary to adopt a rule in accordance with Chapter 120 of the Acts of 1945.