

OPINION 87

OFFICIAL OPINION NO. 87

October 8, 1953.

Hon. W. O. Hughes,
Representative from Allen County,
302 Transfer Boulevard,
Fort Wayne, Indiana.

Dear Sir:

Your letter of September 12, 1953 has been received requesting an official opinion on the following question:

“Does the Indiana State Teachers minimum salary law apply to the salaries of licensed teachers teaching in state institutions, such as the Fort Wayne State School?”

The Fort Wayne State School was created by Section 22-1701, Burns' Indiana Statutes Annotated (1950 Repl.) same being Section 1, Chapter 28, Acts of 1887 as a state institution and originally had for its name Indiana School for Feeble-minded Youth. It is a state institution supported by public taxation.

Under Section 22-1704, Burns' Indiana Statutes Annotated (1950 Repl.), same being Section 1, Chapter 38, Acts of 1931, as amended, the name of said school was changed to Fort Wayne State School.

Other state institutions supported by public taxation, such as the Indiana Girls' School, the Indiana Boys' School, the Indiana State School for the Blind, the Indiana State Soldiers' and Sailors' Children's Home, are authorized to and likewise maintain schools for children therein. By mentioning a few of such class of schools they are referred to as examples rather than any intention to exclude any other state institutions similarly situated.

In an Official Opinion of this office found in 1947 Ind. O. A. G., page 192, Official Opinion No. 39, it was held that teachers in such institutions were not entitled to the benefits of the Indiana State Teachers' Minimum Salary Law. However, as in said opinion pointed out, it was due to the fact that the 1945 Teachers' Minimum Salary Act, same being Chapter 231, Acts of 1945, Section 2, defined the word “teacher” as includ-

ing "all persons working in the public schools who are required by law to secure a license, etc."

The present Indiana State Teachers' Minimum Salary Law is Chapter 293 of the Acts of 1951. Section 2 of said Act, same being Section 28-4333, Burns' Indiana Statutes Annotated (1953 Supp.) defines the word "teacher" as therein used "to include all persons working in or for the kindergarten, elementary, and secondary grades of all schools of this state *supported by public taxation* heretofore and hereby required by law to secure the proper kind and grade of license, etc."

This provision is a re-enactment of an identical provision first found in the 1949 amendment to said Salary Act, same being Section 1, Chapter 224, Acts of 1949.

It is important to consider that at the time of amending said Salary Act in 1949, the title of said act was broadened to include the following: "* * * granting certain authority to the Training and Licensing Commission of the State Board of Education concerning the qualifications of teachers * * *."

It is also pertinent to note that while said state institutions are subject to the State Personnel Act, Section 12 of said Act, same being Section 60-1312, Burns' Indiana Statutes Annotated (1951 Repl.) provides in part as follows:

"* * * the director shall prepare and recommend to the board a pay plan for all employees holding positions *for which compensation is not fixed by law.* * * *"
(Our emphasis.)

It is therefore seen that the definition of the word "teacher" has been changed from one working in the public schools, which under the 1947 Official Opinion was held not to include state institutions, to any person working in or for the kindergarten, elementary and secondary grades of all schools of this state *supported by public taxation*, and required to have a license as determined by the Licensing Board of the State Board of Education as a prerequisite to the performance of their work.

Since such institutions are supported by public taxation, they come within the definition fixed by the 1951 Teachers' Minimum Salary Act and in my opinion such Minimum Salary

OPINION 88

Law therefore applies to licensed teachers teaching in the kindergarten, elementary and secondary grades of such institutions.

OFFICIAL OPINION NO. 88

October 8, 1953.

Mr. Don Clark, Secretary,
State Office Building Commission,
302 State House,
Indianapolis, Indiana.

Dear Mr. Clark:

This is in reply to your letter in which you inquire as follows:

“Will you please furnish the State Office Building Commission with an official opinion that will show the total amount of appropriation available to said commission. Section 13 of the Act carries an appropriating clause for the sum of \$50,000. Some members of the commission have expressed the desire that the \$20,000 amount referred to in Section 7 be considered as appropriated in addition to the \$50,000. So that there can be no question as to the amount legally appropriated I make this request.

“A second request on which we would appreciate your opinion is ‘would any architect who assists the professional advisor be barred from entering the competition?’ There is a possibility that the professional advisor might want to consult with one or more of Indiana’s leading architects prior to the competition and that said architects might desire to enter the competition. Therefore, it is felt that it would be very advantageous to know whether or not they could help the professional advisor without disqualifying themselves as far as the competition is concerned.”

The Acts of the General Assembly of 1953, Chapter 221, Sections 7, 13 and 14 as found in Burns’ Indiana Statutes Annotated (1951 Repl., 1953 Supp.), Sections 60-2107, 60-2113 and 60-2114 provide in part as follows: