

The General Corporation for Profit Act, Chapter 215, Acts of 1929, the same being Burns' Indiana Statutes Annotated (1948 Repl.), Section 25-213 provides:

“Three (3) or more natural persons of lawful age, at least a majority of whom are citizens of the United States, may form a corporation under this act by complying with the provisions of sections 15 to 17 (Sections 25-214—25-216), inclusive, of this act.”

Accordingly, only natural persons can act as incorporators. Notre Dame is not a natural person, but a corporation chartered by the legislature and, therefore, cannot be an incorporator.

It is axiomatic that the laws regulating the organization of a corporation must be complied with in order to create a legal entity.

Porter, Trustee v. The State *ex rel.* Dunkleburg, Jr. (1895), 141 Ind. 488, 40 N. E. 1061;

The Indianapolis Furnace and Mining Company v. Herkimer (1874), 46 Ind. 142.

From the foregoing, it is my opinion that your question should be answered in the negative.

OFFICIAL OPINION NO. 94

October 19, 1953.

Hon. Sam J. Bushemi, Member,
House of Representatives,
3500 Connecticut Avenue,
Gary, Indiana.

Dear Mr. Bushemi:

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

“Is it legal to issue a transfer for patients studying at Lake County Tuberculosis Hospital when those patients already have a high school diploma?”

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Article 8, Section 1 of the Constitution of Indiana provides as follows:

“Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.”

The Acts of the General Assembly of 1945, Chapter 18, Section 1, as found in Burns' Indiana Statutes Annotated (1948 Repl.), Section 28-3519 provides in part as follows:

“The school corporation, wherein resides any person not less than seven (7) nor more than thirty (30) years of age, who is a patient in a sanatorium maintained solely for the treatment of tuberculosis, which sanatorium is approved by the state board of health and is under the direction of legally licensed physicians, shall issue a certificate of transfer for such person and shall pay for such kind and extent of instruction as such person is capable of receiving at any such institution, to be determined by it, provided, however, that no school corporation shall be required to furnish education for patients in such sanatorium in excess of that provided in the most advanced commissioned high school in the state.”

The Attorney General of Indiana in 1944 gave as his opinion that a school corporation may not collect tuition for school attendance from an individual who is twenty-one years of age or over.

1944 O. A. G., page 386, No. 87.

The statute, Burns' Indiana Statutes Annotated, Section 28-3519, *supra*, sets up one standard and one only to determine the eligibility of a person to take educational courses and that standard is a patient not less than seven (7) nor more than thirty (30). The phrase “in excess of that provided in the

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most advanced commissioned high school in the state" as found in Burns' Indiana Statutes Annotated, Section 28-3519, *supra*, is not a further limitation on the eligibility of a patient to take educational courses, but on the contrary is a limitation on the obligation of the school corporation that it shall not be required to provide courses of instruction in excess of that provided in the most advanced commissioned high schools of the state.

It is therefore my opinion that it is legal to issue certificates of transfer for patients studying at the Lake County Tuberculosis Hospital between the ages of seven (7) and thirty (30) who have already received high school diplomas.

OFFICIAL OPINION NO. 95 ✓

October 19, 1953.

Hon. Sam J. Bushemi,
State Representative,
3500 Connecticut Ave.,
Gary, Indiana.

Dear Sir:

Your letter of October 5, 1953 has been received in which you request an official opinion on the following question:

"Do school authorities have the right to require teachers to become members of or pay fees to a certain teachers' organization as a prerequisite to receiving pay for the days on which the organization holds its convention and on which school may be dismissed?"

The foregoing was the subject matter of an unofficial opinion to you dated February 1, 1952, which was followed by an official opinion on the same matter, same being 1952 O. A. G., page 88, No. 21, which said:

"Section 28-4405, Burns' provides as follows:

"The school board of any city or town, and the township trustee of any township, may adjourn the schools of such city, town or township in order to allow teachers to attend sessions