

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

OPINION 95

of schools or institutes of agricultural instruction held in the county, and the meetings of any teachers' associations, and to visit model schools under the direction of trustees or boards of trustees, and shall pay such teachers a wage for the time spent equal to the *per diem* of such teacher: Provided, That not more than three (3) days shall be allowed in any one (1) year.'

"Under the above statute, it is clearly discretionary with the school board or school officials named, to adjourn the session of that school corporation for, among other things, attending meetings of any teachers' association.

"From the tenor of the whole statute, it is clear the purpose of such statute is to make available to the teachers meetings which will be helpful to them in their professional work.

"There is also a provision in the uniform prescribed form of teachers' contract, relative to such attendance at meetings referred to in the statute.

"While I do not believe the school authorities have the right to tell any teacher what organization or association they should belong to, the decision of the purpose of said adjourned days of school is left to the local school officials and the statutes seem to contemplate *per diem* pay for such adjourned days of school for teachers attending the meetings prescribed by their local school officials."

It seems that you desire that the foregoing answer be more explicit. In this connection, it is considered pertinent to point out that the foregoing statute is Chapter 278 of the Acts of 1911, the title of which Act reads as follows:

"AN ACT concerning the payment of teachers while attending schools or institutions of agricultural instruction."

It is therefore readily seen the subject matter of the entire Act is a payment of teachers while attending such schools or

institutions. School is adjourned by the local school officials for the purpose of attending the meeting or meetings particularly designated by them and the statute authorized payment for the salary of such teachers during such period of adjournment only "for the time spent." When considered in connection with the context of the body of said statute, as well as the title of said Act it can only refer to time spent by the teacher "while attending" such meetings, as this statute is specifically limited by its title to such matters. Whether a teacher has incidental expenses as a result of such attendance does not qualify the provisions of the statute or change its requirements.

I therefore affirm the foregoing official opinion and state that while authorities do not have the right to require teachers to become members of or pay fees to any certain teachers' organizations, it is up to local school officials to designate for what meetings as authorized by Burns' Indiana Statutes Annotated, Section 28-4405, *supra*, school is adjourned, and that such school officials can pay such teachers during such adjournment only for their time spent while attending such meetings so designated.

OFFICIAL OPINION NO. 96

October 23, 1953.

Hon. George N. Craig,
Governor, State of Indiana,
206 State House,
Indianapolis, Indiana.

Dear Governor:

This is in reply to your inquiry of October 19, 1953 as to the following:

"May a member of the state legislature serve on the State Fair Board without resigning from the legislature?"

This involves three sections of the Indiana Constitution which are as follows: