

regulations. Consequently, I am of the opinion that there is nothing unlawful per se in the use of divisions or institutes in connection with a beauty college.

However, it is well to bear in mind that a beauty college whether offering special courses or not must comply with the rules and regulations of the board and in that connection I wish to point out Rule Number 13 which prevents the enrollment of a student in a school for less than thirty hours or more than 48 hours a week for training; Rule Number 21 which requires that if students enrolled for more than one thousand hours of training, such intent must be specified on the enrollment card at the time of enrollment, and Rule Number 27 which requires instructors employed by beauty schools to be licensed beauticians in good standing for at least five years and graduates of approved schools of beauty culture.

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OFFICIAL OPINION NO. 8

March 25, 1947.

Hon. Ben H. Watt,  
Superintendent of Public Instruction,  
State House,  
Indianapolis, Indiana.

Dear Mr. Watt:

I have your letter of March 18, 1947 in which you request an official opinion upon the following question:

“In Chapter 328 of the Acts of 1947 there appears an apparent omission in section 1, schedule 4, so as to make it difficult to harmonize the wording of the schedule with the specific figures in the table which follows. I should like your official opinion on the following question:

“Are the figures in the salary schedule table to be considered controlling in the computation of the minimum salaries of teachers?”

Section 1 of Chapter 328 of the Acts of the Indiana General Assembly for the year 1947 provides in part as follows:

“\* \* \* That the base minimum salary of any teacher in the public schools of the state shall be, provided that such teacher on the first day of service in the current school year shall be legally licensed and have completed years of professional training in an accredited teachers’ training institution, as follows: \* \* \*

“Schedule 4. The basic salary of all legally licensed teachers who have completed five (5) years or one hundred eighty (180) weeks of professional training, for eight (8) months of service, shall be two thousand one hundred thirty-three dollars (\$2,133.00) to which shall be added forty dollars (\$40.00) for each year of teaching experience not to exceed twenty (20) years; and such teachers after twenty-two (22) years teaching experience shall be granted a service increment of fifty-eight dollars (\$58.00) and after twenty-four (24) years of experience a service increment of eighty-nine dollars (\$89.00).

“\* \* \*

“As provided in this section, the following schedule shall prevail:

## Salary Schedule for Eight Months' Service

Years of Experience	Weeks of Training As Set Out Above			
	Schedule 1	Schedule 2	Schedule 3	Schedule 4
0	\$1600	\$1800	\$2133	\$2133
1	1640	1840	2173	2173
2	1680	1880	2213	2213
3	1720	1920	2253	2253
4	1760	1960	2293	2293
5	1800	2000	2333	2333
6			2373	2381
7			2413	2429
8			2453	2477
9			2493	2525
10			2533	2573
11				2621
12				2669
13				2717
14				2765
15				2813
16				2861
17				2909
18				2957
19				3005
20				3053
22				3111
24				3200"

In the foregoing statute it is evident that the Legislature fixed the minimum salaries of school teachers in this state upon the basis of the years of training of the teachers and also upon the years of experience in teaching. In Schedule 4 of the foregoing statute the Legislature first provides that the basic salary of all legally licensed teachers, who have completed five years of professional training, for eight months of service shall be \$2,133.00, to which shall be added \$40.00 for each year of training and experience not to exceed twenty years. However, an examination of the table thereafter set forth in such statute reveals that beginning with the sixth year of experience and extending to the twentieth

year, the teachers within Schedule 4 will receive an additional \$48.00 per year instead of the \$40.00 per year provided in the first part of such statute. There is thus a conflict between the first part of the foregoing statute and the last part comprising the table as to those teachers in Schedule 4.

In a situation of this kind it is necessary to construe the statute in question so as to carry out the intention of the Legislature. If it is possible to construe this statute so that there would be no conflict in its provisions, such a construction must be made. However, it is plain that there is an irreconcilable conflict between the first part of the statute providing for an additional \$40.00 per year for each year of experience and the table which provides for an additional \$48.00 per year for each additional year of experience for those teachers in schedule 4, above set forth.

It has been decided by the courts of this state that where there is an irreconcilable conflict between the wording of a particular statute and a later schedule or table illustrating such wording, the table or schedule shall prevail.

Wasson, Treasurer v. The First National Bank  
of Indianapolis (1886), 107 Ind. 206, 212;  
Mayfield v. Nale (1900), 26 Ind. App. 240, 242;  
Orr v. Meek, Administrator (1886), 111 Ind.  
40;  
Matter v. Campbell (1880), 71 Ind. 512; 1944  
Ind. OAG 295, 300-301.

In the case of Wasson, Treasurer v. The First National Bank of Indianapolis, *supra*, the Indiana Supreme Court held that where there was a conflict between the wording in a tax statute and a schedule thereafter contained in such statute, the schedule would prevail. The court said at page 212:

“\* \* \* If, however, there were an irreconcilable conflict between section 6332 and 6336, which provides the schedule, the latter must govern.

“The schedule is the summing up and putting in shape for practical use what is provided in the preceding sections. The schedule has heretofore been regarded as controlling. \* \* \*”

Also, in 1944 Ind. OAG, this office held that where there was a conflict in an election statute on the question of whether the names of candidates for United States Senator should appear on the national ballot or state ballot, the form of the ballot as set forth in the statute would control.

Moreover, in the statute in question it is significant that the Legislature has specifically provided just before setting forth the table in question that "as provided in this section, the following schedule *shall prevail*:". (Our emphasis). This appears to indicate the legislative intention that if there is any conflict in the statute in question as to the amounts to be paid to teachers, the amounts set forth in the schedule or table shall prevail.

Based upon the foregoing reasons and authorities, it is my opinion that the figures in the salary table in the foregoing statute are controlling in the computation of the minimum salaries of teachers.

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OFFICIAL OPINION NO. 9

March 25, 1947.

Hon. Thomas E. Bath,  
Secretary of State,  
State House,  
Indianapolis, Indiana.

Dear Mr. Bath:

I have your letter of February 18, 1947 which reads as follows:

"There has been submitted to me for filing a notice of appointment of resident agent by a foreign corporation which is in the usual form. There is, however, appended to the notice a separate appendage which recites as follows:

"TO WHOM IT MAY CONCERN:

"For whatever effect it may have, The Oliver Corporation declares that, by complying with the provisions of the Indiana General Corporation Act respecting the designation of an agent for the service