

of his holding some grade of license required or provided for by the statute.

State ex rel. Benham v. Bradt (1908), 170 Ind. 480;

Jackson School Tp. v. Farlow (1881), 75 Ind. 118.

Based upon the foregoing statutes and decisions it seems clear that *all* teachers who teach in the public schools are required to be licensed, regardless of whether they are regular or substitute teachers. As shown in my answer to your third question, the licensing of teachers is now vested in the licensing board of the state board of education under Chapter 330 of the Acts of 1945.

Since substitute teachers are required by law to secure licenses from the licensing board of the state board of education, as a prerequisite to the performance of their work, such persons are "teachers" within the meaning of Section 1 of Chapter 231 of the Acts of 1945, and are therefore entitled to the minimum compensation provided for therein.

OFFICIAL OPINION NO. 92

August 28, 1945.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of August 10, 1945, has been received, in which you requested an official opinion on the following question:

"1. Chapter 156 of the Acts of 1945 of the Indiana General Assembly states in part that 'The county superintendent of schools together with such other persons employed for supervisory or administrative duties shall be deemed to be supervisors of instruction and as such eligible, subject to the rules that have been or shall be adopted by the state board of education, to

qualify for teaching units in accordance with the terms of Chapter 263 of the Acts of 1943 * * * the county board of education * * * shall be deemed to fulfill all requirements of a school corporation for receiving such funds from the state school tuition fund.'

"*QUESTION*: On the basis of the above specifically quoted statement, is it necessary that the General Commission of the State Board of Education take any further action in order to effectuate as of March 5, 1945, the effective date of the above quoted statute, the rules and regulations of the former State Board of Education, entitled 'Standards for Determining Additional Units for Principals and Supervisors, as provided for under Chapter 263, page 742, of the Acts of 1943,' and approved at a regular meeting of the Indiana State Board of Education held at Indianapolis, Indiana, on the 17th day of December, 1943? A copy of the rules and regulations referred to above is attached, which rules and regulations were properly promulgated, approved and filed in conformity with the provisions of Chapter 213 of the Acts of the Indiana General Assembly of 1943, and Chapter 120 of the Acts of 1945.

"2. On July 13, 1945, the General Commission of the State Board of Education authorized the advertisement of the following rule supplementing rules entitled 'Standards for Determining Additional Units for Principals and Supervisors, as provided for under Chapter 263, page 742, of the Acts of 1943':

"'One additional unit may be granted to each county board of education without regard to a. d. a. (average daily attendance) units. The county superintendent of schools shall be deemed to qualify for this additional unit.'

"*QUESTION*: Said rule was properly advertised and a hearing was held on July 28, 1945. Does this proposed rule meet the qualification of uniformity as provided in Section 5 of Chapter 263 of the Acts of 1943, which reads as follows:

“The state board of education also shall determine by uniform rule, applicable throughout the state, when and if the services of full time principals and supervisors shall be deemed to constitute units under this act.’

“3. If the word ‘county’ were stricken out where it appears in both instances in the proposed rule, would the rule then meet the test of uniformity?”

Section 1, Chapter 156 of the Acts of 1945 in part reads as follows:

“* * * The county superintendent of schools together with such other persons employed for supervisory or administrative duties *shall* be deemed to be supervisors of instruction and as such eligible, subject to the rules that have been or shall be adopted by the state board of education, to qualify for teaching units in accordance with the terms of Chapter 263 of the Acts of 1943. * * * It shall be the duty of the county board of education through its treasurer, to receive from the State of Indiana, such sums of money as are provided and distributed from the state school tuition fund for teaching units as provided by law for those employed by the county board of education, *and shall be deemed to fulfill all requirements of a school corporation for receiving such funds from the state school tuition fund.* * * *” (Our emphasis.)

Section 2 of Chapter 156 of the Acts of 1945 reads as follows:

“All laws and parts of laws in conflict with the above entitled act as the same exists after the passage of this act are hereby repealed and due to an emergency shall be in effect from and after the passage of this act.”

Section 1, Chapter 201, Burns’ 1933, provides in part as follows:

“The construction of all statutes of this state shall be by the following rules, unless such construction be

plainly repugnant to the intent of the legislature or of the context of the same statute:

“First. Words and phrases shall be taken in their plain, or ordinary and usual, sense. * * *”

When the word “shall” is used in a statute, it is presumed to have been used in its imperative sense.

Board of Finance of School City of Aurora v.
Peoples National Bank (1909), 44 Ind. App.
573, 89 N. E. 904.

A court has no authority to read anything into a statute which is plain and unambiguous, but must give full effect thereto.

Cain v. Staley Mfg. Co. (1933), 97 Ind. App.
235, 186 N. E. 265.

When a statute is free from any ambiguity, there is no room for judicial construction by court.

State v. Squibb (1908), 170 Ind. 488, 84 N. E.
969;

Kunkalman v. Gibson (1908), 171 Ind. 503, 84
N. E. 985, 86 N. E. 850;

State v. Mutual Life Ins. Co. (1910), 175 Ind.
59, 93 N. E. 213, 42 L. R. A. (N. S.) 256;

Kirkpatrick v. Van Cleave (1909), 44 Ind. App.
629, 89 N. E. 913;

Indiana Union Trac. Co. v. Gough (1913), 54
Ind. App. 438, 102 N. E. 453;

Cain v. Staley Mfg. Co. (1933), 97 Ind. App.
235, 186 N. E. 265;

Williams v. Michigan City (1934), 100 Ind. App.
136, 192 N. E. 103.

1. Chapter 156 of the Acts of 1945 uses the language: “subject to the rules that have been * * * adopted by the state board of education, * * *.” There is no authority to disregard this language, and it must be presumed that when the Legislature used this language it meant what it said. There can be no ambiguity concerning it, and there is no neces-

sity for construction. Therefore, in answer to your first question, it is my opinion that there is no necessity for the present General Commission of the State Board of Education to adopt new standards by new rules if the General Commission, in its discretion, should decide to permit the previous standards and rules to remain in force. This statute was effective as of March 5, 1945. As to all persons named or referred to, the payment is to be computed on a pro rata basis for the unexpired part of the 1945 calendar year.

2. Your second question contains two parts. The first sentence purports to grant permissive authority to grant an additional unit to each county board of education. The statute says it "shall" be granted. No administrative board has authority to adopt a rule contrary to the provisions of the statute. *Wallace v. Donner* (1929), 89 Ind. App. 416, 420. Therefore, the first sentence of the rule is void. The second part of the rule quoted is also of no effect, for it merely purports to say the same thing the statute does. When a rule only states in different language what the statute already provides, it is of no force whatever.

3. My answer to question number two makes it unnecessary to consider your third question since it is hypothetical and purely moot.

OFFICIAL OPINION NO. 93

August 30, 1945.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of August 4, 1945, received requesting an official opinion upon the following questions:

"The 1943 Legislature passed an emergency act extending the retirement age of a teacher two years, which emergency legislation was re-enacted by the 1945 Legislature extending the retirement until 1947.