

Section 10 of Chapter 217 of the Acts of 1935, same being Section 35-127 Burns' 1943 Supplement, provides:

“Upon the approval by the county commissioners of the county or the common council of a city, the health officer may receive gifts, donations, or other financial assistance from private individuals, corporations, or the state or federal government, provided the conditions under which the grant is made are fully understood and have the approval of the state board of health.”

Under the last quoted section of the statute it is clear the salary given such health officer was not intended to be in full for services rendered but was to include among other things “financial assistance” from other sources including the state government.

I am therefore of the opinion the money received by local health officers for such certified copies of certificates provided for by Chapter 154 of the Acts of 1945 is the personal property of such health officers.

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OFFICIAL OPINION NO. 118

November 19, 1945.

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

Dear Sir:

Your letter of September 24, 1945, received requesting an official opinion on the following questions:

“1. Can the commission adopt and contract for less than three books in a subject and grade and what limitations should be placed on the word ‘satisfactory’ in the law as it is used in giving the commission any powers it may have to adopt less than three books?”

"2. Does the commission have the authority to delay the adoption of geographies and if so within what limitations?"

"3. Is there any manner in which the commission may comply fully with the provisions of law and still make it possible for the schools of the State to utilize the new materials in geography which will be available as soon as the publishers have had an opportunity to prevent new series or revised series of books?"

From other parts of your letter it is clear your questions are directed to an interpretation of the new multiple list law of 1945, same being Chapter 243, Acts 1945. You further preface your questions with a statement that it is possible and in fact probable that suitable material in geography cannot now be submitted by the various publishers and you are concerned with the fact that the contracts if granted will run for a period of five (5) years starting July 1, 1946.

Section 3 of Chapter 243 of the Acts of 1945 provides in part as follows:

"In the case of subjects and grades for which textbooks are adopted on the effective date of this act the multiple listing and contracting shall be conducted as follows: Not later than December 15 of the year preceding the expiration of any contract or contracts, the board shall adopt and enter into new contracts for three (3) textbooks for each subject and grade, for which contracts will expire during the next succeeding calendar year, provided three (3) satisfactory textbooks for such subject and grade are submitted.

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Section 7 of said Act provides in part as follows:

"It shall be the duty of said board to carefully examine such books as are submitted for approval and to meet at the time and place announced for the purpose of finally approving books for use in each subject and grade, taking into consideration the size and quality as to material, subject matter, style of binding,

mechanical execution of such books, and the price thereof. \* \* \*"

1. In answer to your first question it is to be noted Section 3 of the above statute provides that much multiple list shall be adopted "provided three (3) satisfactory textbooks for such subject and grade are submitted."

Webster's New International Dictionary, Second Edition, Unabridged, defines the word "satisfactory" as follows:

"Giving or producing satisfaction; yielding content; as: adequate for the purpose; offering adequate treatment or fullness of detail; of a kind to meet all requirements or expectations; explaining fully; serving to allay the demands of a questioner or challenger; relieving the mind from doubt or uncertainty; as, a satisfactory pension, report, marriage, provision, excuse."

I am therefore of the opinion that if the State Textbook Commission finds that as to certain grades there are not three (3) geographies satisfactory for adoption, or if it should find there are no geographies for certain grades satisfactory for adoption, that it could accordingly refuse to place such geographies on such adopted list. However, such action by such Commission cannot be arbitrary or capricious but must be reasonable.

Wallace v. Dohner (1929), 89 Ind. App. 416, 420;

Blue v. Beach (1900), 155 Ind. 121, 130.

In reaching this conclusion it is clear the statute does not contemplate requiring such Commission to adopt geographies for listing for a five (5) year period where due to world conditions the maps and text contained in such books might be so incorrect as to render such books unsatisfactory.

2 and 3. In answer to your second and third questions I am of the opinion the Commission does not have the authority to delay the adoption of geographies if said geographies are submitted to the Commission at the time it meets for the purpose of adopting such textbooks. If none are available at that time the Commission could not act on such adoption of

geographies until the next meeting of the Commission on or before December 15 of the following year. In the interim the school trustees in such case would be required to purchase or use in their schools the best books on such subject they may find available. In this connection it is pointed out that in Official Opinion of this office to you under date of November 13, 1945, same being 1945 Indiana O. A. G. number 115, it is stated the first meeting of the Commission under Chapter 243 of the Acts of 1945, for the adoption of textbooks may be held later than December 15, 1945, due to the fact the Acts will not be promulgated in time to give the legal notice required by said statute.

I am further of the opinion the Commission is not authorized by the above statute to substitute revisions of books for those once adopted during the term of the five-year textbook contracts. This would be inconsistent with the provisions of Section 7 of said statute, *supra*, requiring the Commission to pass upon the books adopted and at that time taking into consideration "the size and quality as to material, subject matter, style of binding, mechanical execution of such books, and the price thereof."

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OFFICIAL OPINION NO. 119

November 20, 1945.

Hon. Forrest V. Carmichael, Executive Secretary,  
Indiana State Teachers' Retirement Fund Board,  
Room 334, State House,  
Indianapolis 4, Indiana.

Dear Sir:

Your letter of October 9, 1945, has been received in which you request an official opinion on the following question:

"Was it the intention of the General Assembly, that teachers who started teaching prior to July 1, 1921, who enter the 1945 Indiana State Teachers' Retirement Fund Act, who had entered into a contractual relationship under the 1939 Teachers' Retirement Fund Acts, be permitted to be granted an annuity without the payment of arrearages under the prior Act?"