

COMMON SCHOOL DISTRICTS cannot employ member of school board
as teacher and should not employ member for other work.
(~~Stat.~~, Sec. 9360 R. S. 1929, does not apply)

April 13, 1933.



Hon. James S. Rooney
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Mr. Rooney:

Your letter of April 8th, received and noted, in which you say you have a common school district in the west part of your county, known as Munger School District, which has three directors. It appears that one of the directors has on several occasions done repair work on the school building and has received compensation for his work, which compensation has been by some folks living in the district considered excessive in amount. You also refer to Section 9360, R. S. 1929, stating this is forbidden in cities, town and consolidated school districts and asking whether same applies in case of common school districts.

Section 9360, R. S. No. 1929, says,

"No member of any public school board of any city, town or village of this state having less than twenty-five thousand inhabitants shall hold any office or employment of profit from said board while a member thereof except the secretary and treasurer, who may receive reasonable compensation for their services: * * * * * that it shall be the duty of each of said boards, and of the board of directors in other school DISTRICTS in this state having graded schools, to make and publish, annually, on or before the 15th day of July in each year, * * * * * written statements * * *, a detailed statement of all receipts of school moneys, when and from what source derived, and of all expenditures, and on what account; * * * * *, and the secretary shall forward a copy of said report to the State superintendent of public schools at Jefferson City. * * * * * (failure to do so) shall be guilty of a misdemeanor and punished by a fine not to exceed one hundred dollars."

Relative to your first question, Section 9309, R. S. Mo. 1929, expressly states,

"The board shall not employ one of its members as teacher, nor shall the teacher serve as clerk of the district. All transactions of the board under this section must be recorded by and filed with the district clerk."

Section 9234, R. S. 1929, states that boards of education must enforce the laws.

Section 9234, R. S. 1929, states that no teacher shall be employed without a certificate etc.

Section 9235, R. S. 1929, says (about teaching without a certificate):

"Any director who shall endorse or encourage such teacher in such unlawful conduct shall be deemed guilty of a misdemeanor and punishable by a like fine."

Answering your first question, it is our opinion that Section 9360 does not apply to common school districts, but the spirit of same should be observed in the matter of directors working for the school board as Section 9209 expressly says that a director cannot be employed as a teacher, and Section 9235 provides the penalty for violations, and a school director cannot, naturally, make a contract with himself to do work (See Sec. 2962, R. S. 1929) and a contract made with himself would not be legal or binding and he could not recover for same; it would be improper for the school board to employ one of their members for compensation; or near relative, Art. 14, Sec. 13, Const.

In regard to your second question, as to whether under Section 9360, would common school districts be compelled to publish statement as required therein, it is our opinion that common school districts are not required to publish or forward to the state superintendent at Jefferson City, copies of their reports, but are governed by Sections 9289, 9291, 9309, R. S. 1929, and kindred sections:

Very respectfully,

Geo. B. Strother

GEO. B. STROTHER
Assistant Attorney-General.

APPROVED: _____

ROY McKITTRICK
Attorney-General.