

SCHOOLS: District may not pay bonus to teacher when said bonus is not provided by contract.

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Hon. Richard Chamier
Prosecuting Attorney
Randolph County
Moberly, Missouri

Dear Sir:

This department is in receipt of your request for an official opinion which reads as follows:

"The school directors in District #50, employed a teacher at \$75.00 a month for eight months. At the end of the eight month period the directors voted a bonus to the teacher of \$100.00. This was in addition to her salary. Her contract had no reference to any bonus.

"A tax payer has complained alleging the school district had no authority to pay the bonus. Please advise whether or not the action of the board in paying the bonus was improper."

Article IV, Section 47, of the Constitution of Missouri provides in part as follows:

"The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit, or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, * * * * *"

As stated in your request, this money is paid by the school district not under the terms of the contract of employment, but as a mere gratuity or "bonus". Therefore, these statutes relating to contracts between school teachers and school directors or boards of education (Sections 9209, 9210, R.S. Missouri, 1929) are not applicable to the situation at hand.

Under the above constitutional provision, no political subdivision of the state can grant public money to any individual. That a school district is a public subdivision is no longer open to question. State ex rel. McKittrick v. Whittle, 63 S.W. 2nd 100, State ex rel. School District v. Gordon, 231 Mo. 547, 133 S.W. 44. Therefore, for the officers of a school district to grant to a teacher money for the payment of which the district is not liable, and which is a mere gift and gratuity on the part of such directors, clearly comes within the inhibition of the above constitutional provision, and is, therefore, illegal and void.

There is another reason which would make such a gift void and of no effect. Article IV, Section 48, of the Constitution of Missouri provides as follows:

"The General Assembly shall have no power to grant, or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void."

In Watts v. Levy District, 164 Mo. App. 263, the court said:

"While this constitutional prohibition does not literally cover the class of

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officers or public agencies to which these drainage districts belong, it would seem that its spirit should cover them, and that spirit is against the allowance or payment."

While the above case deals with a drainage district, still the political status and nature of a school district are very similar to that of a drainage district and what was said in that case is equally applicable here.

CONCLUSION

It is, therefore, the opinion of this department that a board of directors of a school district may not grant a bonus at the end of a year to a school teacher, no mention of which is made in the contract of employment.

Respectfully submitted,

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APPROVED By:

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