

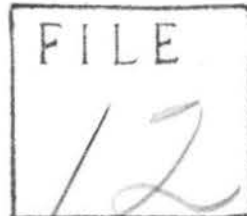
SCHOOLS:

- Board of Managers may use discretion
in employing teachers.

MISSOURI SCHOOL
FOR THE BLIND:

5-1
April 27, 1942

Missouri School for the Blind
3815 Magnolia Avenue
St. Louis, Missouri



Attention - Mr. R. Wilson Brown,
Superintendent

Dear Sir:

We are in receipt of your letter of April 23,
1942, in which you request an official opinion, as fol-
lows:

"Inasmuch as the present school term
will end on May 29 it is extremely im-
portant that your office give us an
opinion upon the matter outlined in
this letter as early in May as possi-
ble.

"Chapter 72, Article 25, Section 10847,
of the Revised Statutes of Missouri,
having to do with the duties of the
Board and Superintendent, salaries and
wages, and employment of help, says,
in part, 'The Board of Managers of each
of said schools shall elect the super-
intendent and all teachers and officers
of said school and prescribe the num-
ber to be employed therein, fix their
terms of office and the amount of compen-
sation for their services.'

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"The questions in our minds are these:

1. May the Board of Managers use its own best judgment in selection of teachers and in refusal to reemploy teachers according to the best interest of the school rather than follow any prescribed rules or regulations?
2. May the Board use its own judgment in refusing to reemploy a teacher beyond the period of the original contract?
3. When the Board does not employ or reemploy an individual, is it necessary for the Board to state reasons?"

Section 10847 R. S. Missouri, 1939, reads as follows:

"The board of managers of each of said schools shall elect the superintendent and all teachers and officers of said school and prescribe the number to be employed therein, and fix their terms of office and the amount of compensation for their services. The superintendent shall have the power to employ all foremen, employees, supervisors, mechanics, servants and other persons not otherwise provided for and shall have the power to discharge the same at his pleasure: Provided, that the board shall have first designated the number of employees and their wages; and provided further, that nothing herein shall prohibit the

board from discharging any employee when they may deem it for the interest of the school so to do. The salaries and wages due officers, teachers and employees of these schools shall be allowed and paid monthly. The superintendent and matron of each school shall reside therein."

This section of the statutes has not been construed by any of the appellate courts of this State, for the reason that it is unambiguous. Where language of a statute is plain, and unambiguous, it may not be construed, but must be given effect as written. (St. Louis Amusement Company v. St. Louis County, 147 S. W. (2d) 667.)

Under the above section the Board of Managers of the Missouri School for the Blind elects the Superintendent and all of the teachers and officers, prescribing the number to be employed and fees, terms of office and amount of compensation. Also, under the above section, the Board of Managers is not prohibited from discharging any employee when it may deem it for the best interest of the school. Of course, if the teacher, or employee, has a contract with the Board of Managers, the Board must recognize all of the terms of the contract.

A similar section which refers to schools other than the Missouri School for the Blind was construed to the effect that no limitations can be placed upon the director of a school district to employ, and to contract with, legally qualified teachers. It was so held in the case of Tate v. School Dist. No. 11 of Gentry County, 23 S. W. (2d) 1013, 1. c. 1020, where the court said:

"The legislative grant of power to the board of directors of a school district to employ, and to contract with, legally qualified teachers,

is made general by the statute. No express limitation is put upon the grant of power by any language of the statute; nor is any limitation upon the power granted to be reasonably implied from the language and context of the statute. The statute does not limit, or undertake to limit, either expressly or impliedly, the period of employment of a teacher to the single and particular school year in which the "contract of employment is made by the school district board of directors."

It has also been held that when under contract a teacher can be discharged when violating the rules and regulations of the school. It was so held in *Strayhorn v. Blodgett Consol. School Dist. No. 35 of Scott County*, 86 S. W. (2d) 374, 1. c. 380, where the court said:

"We therefore hold that in a contract of employment between a school board and a teacher, that the rules and regulations are a part of the contract, where the teacher has been furnished with the rules and regulations of the board, or has actual knowledge of such rules."

In your questions you do not refer to the discharging of teachers who are under contract, but only refer to the re-employment, or the making of new contracts with teachers now employed by the Missouri School for the Blind.

Missouri School for the
Blind

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CONCLUSION

In answer to your first question, it is the opinion of this department that the Board of Managers may use its own best judgment in selecting teachers, and may refuse to re-employ teachers for the reason that Article 25, Chapter 72, of the Revised Statutes of Missouri, 1939, does not set out the qualifications required of a teacher employed by the Board of Managers of the Missouri School for the Blind.

In answer to your second question, it is the opinion of this department that the Board of Managers may use its own judgment in refusing to re-employ a teacher beyond the period of the original contract.

In answer to your third question, it is the opinion of this department that it is not necessary for the Board of Managers to give any reasons for not employing, or entering into a new contract with an individual, as a teacher, or employee, of the Missouri School for the Blind.

Respectfully submitted

W. J. BURKE
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General of Missouri

WJB:RW