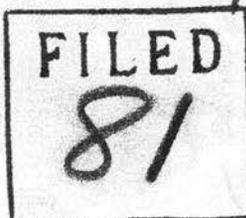


Sec 163.090 RSMo 1949  
TRAINING SCHOOLS: ~~Law~~ relating to re-employment of  
EDUCATION: teachers not applicable to employees  
SCHOOLS: of training schools.

April 9, 1951

Honorable W. E. Sears  
Director, State Board of  
Training Schools  
Jefferson City, Missouri



Dear Sir:

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

"Teachers employed by the Missouri State Board of Training Schools to offer approved work as provided for in the Missouri State course of study, are employed under provisions of the State Merit Act. It is my understanding that these teachers serve their first year (nine months school term or 180 school days) as a part of their probationary period provided for under Merit regulations.

"In view of the above information and the fact that no money from state funds (regular school apportionments) are made available for the payment of these teachers salaries; I respectfully desire to have your opinion as to whether or not Section 163.090, Laws of Missouri, Volume I, 1949, is applicable to the various teachers under the Board of Training Schools.

"You will observe Section 163.090 provides that notice shall be given to teachers prior to the 15th day of April of each school year. Accordingly, it is requested that your opinion be returned to me as far in advance of the above date as possible."

Honorable W. E. Sears

Section 163.090, R.S. Mo. 1949, provides, in part, as follows:

" \* \* \* It shall be the duty of each and every board having one or more teachers under contract to notify each and every such teacher in writing concerning his or her re-employment or lack thereof on or before the fifteenth day of April of the year in which the contract then in force expires. Failure on the part of a board to give such notice shall constitute re-employment on the same terms as those provided in the contract of the current fiscal year; \* \* \*"

The question presented in your request is whether the above statute applies to the employment of teachers at the training schools.

Section 163.090, supra, was enacted in 1943 (Laws of 1943, page 889). The title to said act reads as follows:

"AN ACT to amend Article 2, Chapter 72, Revised Statutes of Missouri, 1939, by adding immediately after Section 10342 thereof a new section to be known as Section 10342a and relating to the re-employment of teachers already under contract."

Article 2, Chapter 72, R.S. Mo. 1939, relates to "Laws Applicable to All Classes of Schools." A reading of the chapter discloses that the schools provided for in said article are the free public schools recognized in Section 1(a), Article IX of the Constitution of Missouri, 1945.

Section 38, Article IV of the Constitution of Missouri, 1945, reads as follows:

"All state training schools and industrial homes for boys and girls shall be classified as educational institutions and shall be in charge of a board of six trustees, three from each of the two major political parties, appointed by the governor by and with the advice and consent of the senate. All employees of the board shall be selected and removed as

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provided for employees in the state  
eleemosynary institutions."

When the above constitutional provision designates the training schools as educational institutions it does not mean that they are a part of the free public school system, but designates them as such institutions as distinguished from correctional or penal institutions which they were considered before the adoption of the 1945 Constitution. It will be noted that it is further provided that the employees of the board shall be selected as provided for employees in state eleemosynary institutions.

Section 19, Article IV of the Constitution of Missouri, 1945, provides that all employees in the state eleemosynary institutions shall be selected on the basis of merit. Our Merit System Act sets up a complete scheme for the employment and removal of the employees of the State Board of Training Schools. Therefore, that act is complete and exclusive in any matters dealing with the employment of the personnel of the State Board of Training Schools, and Section 163.090, supra, which relates to teachers in our free public school system, is not applicable to the teachers employed by the State Board of Training Schools.

#### CONCLUSION

It is therefore the opinion of this department that Section 163.090, R.S. Mo. 1949, which relates to the re-employment of teachers, is not applicable to the teachers employed by the State Board of Training Schools.

Respectfully submitted,

ARTHUR M. O'KEEFE  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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