

OFFICERS: STATE OFFICERS: EMPLOYEES:  
STATE EMPLOYEES: RETIREMENT: STATE  
RETIREMENT SYSTEM: STATE EMPLOYEES'  
RETIREMENT SYSTEM: UNIVERSITY OF  
MISSOURI: MISSOURI UNIVERSITY:  
CURATORS OF UNIVERSITY OF MISSOURI:  
COLLEGES: STATE COLLEGES: STATE  
TEACHERS COLLEGES: TEACHERS COLLEGES:

Employees of the University and colleges who are not covered under some other retirement or benefit fund to which the state is a contributor (not counting contributions under the Federal Old Age and Survivors' Insurance Act) qualify under the law to become members of the Missouri State Employees' Retirement System.



October 2, 1957

Honorable Newton Atterbury, Secretary  
Missouri State Employees' Retirement System  
State Capitol  
Jefferson City, Missouri

Dear Sir:

You have recently requested an opinion from this office on the following question:

"Can employees of the University of Missouri and the State Teachers Colleges qualify under the law and become members of the Missouri State Employees' Retirement System?"

The law creating the Missouri State Employees' Retirement System was passed by the 69th General Assembly as House Bill No. 188, and after having been duly approved by the Governor, became effective August 29, 1957. This law is found in No. 4 of the 1957 Pamphlets to Vernon's Annotated Missouri Statutes as Sections 104.310 to 104.550, inclusive.

The qualification of employees under this plan is governed by the definition of "department" and "employee" found in Paragraphs 11 and 15, respectively, of Section 104.310. These definitions read as follows:

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"(11) 'Department', any department, institution, board, commission, officer, court or any agency of the state government receiving state appropriations including allocated funds from the federal government and having power to certify payrolls authorizing payments of salary or wages against appropriations made by the federal government or the state legislature from any state fund, or against trusts or allocated funds held by the state treasurer;

"(15) 'Employee', any elective or appointive officer or employee of the state who is employed by a department and earns a salary or wage in a position normally requiring the actual performance by him of duties during not less than one thousand five hundred hours per year, including each member of the General Assembly, but not including any employee who is covered under some other retirement or benefit fund to which the state is a contributor, except this definition shall not exclude any employee as defined herein who is covered only under the Federal Old Age and Survivors' Insurance Act, as amended. As used in sections 104.310 to 104.550, the term 'employee' shall include civilian employees of the Army National Guard or Air National Guard of this State who are employed pursuant to section 709 of title 32 of the United States Code and paid from Federal appropriated funds;"

Your question concerns employees of the University of Missouri and the colleges, and with the exception of those who are excluded from the definition of employee because they are covered under some other retirement or benefit fund to which the state is a contributor, these employees clearly meet the definition of "employee" in the Act and therefore, the question for consideration is whether or not the University and the colleges come within the definition of "department" in the Act. The University and the colleges are without doubt, institutions as used in the definition of department. They receive state appropriations and they have power to certify payrolls authorizing payments of salary or wages against appropriations made by the state legislature.

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Therefore, it appears that the University and the colleges come within the definition of department, and their employees, unless excluded because they come under some other retirement or benefit fund to which the state is a contributor, come under the definition of employee, and therefore, may qualify under the law.

CONCLUSION

It is, therefore, on the basis of the foregoing, the conclusion of this office that the employees of the University and the various colleges who are not covered under some other retirement or benefit fund to which the state is a contributor (not counting contributions under the Federal Old Age and Survivors' Insurance Act) qualify under the law and are members of the Missouri State Employees' Retirement System.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Fred L. Howard.

Yours very truly,

JOHN M. DALTON  
Attorney General

FLH:vlw