

February 1, 1966



Honorable John C. Vaughn
Comptroller and Budget Director
State Capitol
Jefferson City, Missouri

Dear Mr. Vaughn:

This letter is in response to your inquiry of December 10, 1965. You refer to a previous ruling of this office (Opinion No. 217, Cohn, 7-25-62) and ask:

"Does the opinion referred to above indicate that a teacher, within the meaning of Section 169.010, Paragraph 6, would be ineligible to contribute to the Public School Retirement System of Missouri after age seventy because of the provision in Section 169.060, RSMo 1959?"

Opinion No. 217, supra, ruled that as to the State Public School Retirement System (Sections 169.010 - 169.130, RSMo):

"A. A teacher is automatically retired July first following the attainment of the age of seventy years and may not thereafter actively engage in teaching in public schools, except under the provisions of Section 169.560 as a substitute teacher;

"B. A school board may not legally pay a teacher's salary from the teachers fund created by Section 165.110, RSMo 1959, beyond July first next after the teacher has attained seventy years of age, except

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under the provisions for a substitute teacher as contained in Section 169.560;

"C. A school board may not legally contract with and employ a 'teacher' who is retired by the provisions of Section 169.060, RSMo 1959, except under the provisions of Section 169.560 regarding substitute teachers."

Your present question is answered by another previous ruling of this office (Opinion No. 24, Donahoe, 5-29-52, copy enclosed.) Opinion No. 24, in part, ruled:

"If a teacher who has reached the compulsory retirement age thereafter continues to teach, the board of trustees of the Public School Retirement System should not accept contributions withheld from the salary of the teacher, together with matching contributions of the employer. Nor should said teacher be allowed membership service credit because of services rendered after automatic retirement."

Opinions 217 and 24, supra, and Opinion No. 133, Vaughn, 8-4-65, should be read together.

Regarding your present inquiry, it is the opinion of this office that a teacher as defined by Section 169.010(16), RSMo. Supp. 1965, would not be eligible to contribute to the Public School Retirement System of Missouri after compulsory retirement by force of Section 169.060, RSMo 1959.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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Enclosure: Opinion No. 24 to
Donahoe, 5-29-52.