

May 10, 1971

Answered by Letter - Jones
OPINION LETTER NO. 6



Honorable Corley Thompson, Jr.
State Representative
Forty-first District
Room 202-D Capitol Building
Jefferson City, Missouri 65101

Dear Representative Thompson:

This letter is to acknowledge receipt of your request for an opinion from this office which reads in part as follows:

"If two different organizations both able to make contributions to the Public Retirement System to the State of Missouri share an employee between them, can both organizations agree to put their proportionate share into the Public Retirement System for that teacher?

* * *

"May a teacher employed by a professional association during a school year while on leave from teaching in that district be an active participant in the Public Retirement System?"

In rendering an opinion on this matter, "the public retirement system" has been assumed to be the Public School Retirement System of Missouri as provided for by Sections 169.010 through 169.130, RSMo 1969. It is also our understanding that the "two organizations" referred to in your first question are a school

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district and a local teachers' association which is affiliated with the Missouri State Teachers' Association, a statewide non-profit educational association.

In response to your request, the word "teacher" is defined in part in subsection 16 of Section 169.010, RSMo 1969, as follows:

"'Teacher' shall mean any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, or librarian who shall teach or be employed by any public school, state college or state teachers' college on a full-time basis and who shall be duly certificated under the law governing the certification of teachers; . . ." (Emphasis ours).

In addition, the word "employer" is defined in subsection 7 of Section 169.010, RSMo 1969, as follows:

"'Employer' shall mean the district that makes payment directly to the teacher or employee for his services; . . ."

It should also be noted that subsection 2 of Section 169.130, RSMo 1969, reads as follows:

"Any person, duly certificated under the law governing the certification of teachers, employed full time by any statewide nonprofit educational association or organization serving on an educational professional basis through its membership the active members of the public school retirement system of Missouri or the public school districts maintaining high schools in this state, may be a member of the public school retirement system of Missouri. Any such person who becomes a member before July 1, 1955, may claim and receive credit for prior service. The contributions required to be made by the member's employer shall be paid by the association or organization."

As a result of the above statutory provisions, it is our view in response to your first question that a teacher has to be employed by one employer and that he or she has to be employed by

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that employer on a full time basis in order to be eligible for membership in the Public School Retirement System of Missouri.

In regard to your next question, the assumption is made that the "professional association" refers to a statewide non-profit educational association or organization and that the individual would be employed full time and receive full salary from the association. Under these circumstances, it is our view that if an individual is duly certificated under the law governing the certification of teachers, and is employed full time by a statewide nonprofit educational association or organization as set forth in subsection 2 of Section 169.130, RSMo 1969, then the individual is eligible to be an active participant in the retirement system; provided that, the contributions required to be made by the individual's employer shall be paid by the association or organization as set forth in subsection 2 of Section 169.130, RSMo 1969, to the retirement system, while the individual is on leave from teaching.

Very truly yours,

JOHN C. DANFORTH
Attorney General