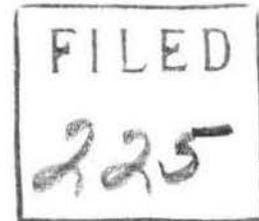


Opinion No. 225 Ans. By Letter
(Randolph)

August 18, 1964



Honorable Gladys B. Stewart
Prosecuting Attorney
Douglas County
Ava, Missouri

Dear Mrs. Stewart:

This letter is in answer to your request for an opinion of this office in regard to whether a local school board can terminate a teacher's contract when he reaches the age of sixty-seven.

Section 169.050, RSMo 1959, governing retirement systems in districts of less than seventy-five thousand population, provides in subsection 1 for compulsory retirement at the age of seventy years. Subsection 2 permits retirement under the age of seventy years in certain circumstances, at the option of the teacher.

Section 163.100, RSMo 1959, states that a school board has no power to dismiss a teacher. It follows that a local school board has no right to terminate a subsisting teacher's contract when he reaches the age of sixty-seven for that reason. However, the board may elect not to re-employ a teacher for the ensuing year pursuant to Section 163.090, RSMo Cum. Supp. 1963, for any reason.

Section 163.090, RSMo Cum. Supp. 1961, provides that a school board shall notify in writing each teacher concerning his re-employment on or before the 15th of April of the year in which the contract then in force expires. A tie vote of the board on re-employment shall constitute employment for the ensuing school year, as will failure of the board to give the required notice. This section does not establish tenure for teachers but contemplates the execution of a new, specific and

Honorable Gladys B. Stewart -2-

distinct contract for each year. State ex rel. Joslin v. School Dist. No. 7 of Jasper County, App., 302 SW2d 497. It follows that if a majority of the whole board votes against re-employing any teacher because he has attained the age of sixty-seven and written notice of the decision not to re-employ is given such teacher on or before April 15th, such action is valid.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

DLR:lt