

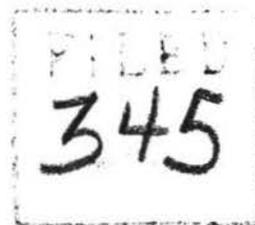
CONFLICTS OF INTEREST:
SCHOOLS:

A resident of one school district who is employed as a full time teacher in another school district can serve in the position of school board member in the district in which he resides without violating the provisions of the Conflict of Interest Law, Sections 105.450 to 105.495, RSMo Supp. 1967.

September 2, 1969

OPINION NO. 345

Honorable Carl D. Gum
Prosecuting Attorney
Cass County Courthouse
Harrisonville, Missouri 64701



Dear Mr. Gum:

This letter is in response to your request for an opinion on the following question:

"Can a resident of one School District, who is employed as a full time teacher in another School District, serve in the position of school board member in the district in which he resides without violating the provisions of the Missouri Conflicts of Law Statute, MoRS 105.450 through .495."

Section 105.450, RSMo Supp. 1967, provides:

"Definitions.-- As used in sections 105.450 to 105.495, unless the context clearly requires otherwise, the following terms have the meanings indicated:

(1) 'Agency', any department, office, board, commission, bureau, institution or any other agency, except the legislative and judicial branches, of the state or any political subdivision thereof including counties, cities, towns, villages, school, road, drainage, sewer, levee and other special purpose districts;

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(2) 'Business entity', a corporation, association, firm, partnership, proprietorship, or business entity of any kind or character;"

Section 105.490, RSMo Supp. 1967, provides:

"Private interests of state officers and employees not to conflict with public interests -- penalties. -- 1. No officer or employee of an agency shall transact any business in his official capacity with any business entity of which he is an officer, agent or member or in which he owns a substantial interest; nor shall he make any personal investments in any enterprise which will create a substantial conflict between his private interest and the public interest; nor shall he or any firm or business entity of which he is an officer, agent or member, or the owner of substantial interest, sell any goods or services to any business entity which is licensed by or regulated in any manner by the agency in which the officer or employee serves.

2. Any person who violates the provisions of this section shall be adjudged guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than five hundred dollars or by confinement for not more than one year, or both."

Section 105.495, RSMo Supp. 1967, provides:

"State officers and employees not to deal with certain persons and entities -- penalties. -- No officer or employee of an agency shall enter into any private business transaction with any person or **entity** that has a matter pending or to be pending upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee is already engaged in the business transaction at the time that a matter arises, he shall be disqualified from rendering any decision or passing any judgment upon the same. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than five hundred dollars or confinement for not more than one year, or both."

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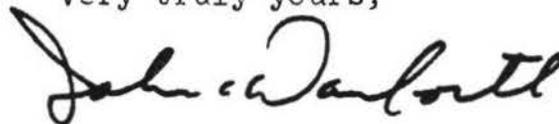
None of these sections prevent a person who may have a potential conflict of interest from holding public office. What these sections do prevent is a person with such a potential or actual conflict of interest from "Transacting business" with the agencies or entities where that conflict of interest may arise. A person with a possible conflict, as described in the statutes, cannot take part in "business transactions" concerning the entities or agencies of which he is an "officer, employee, agent, or member". However, nothing in the statutes bars that individual from being associated with those entities or agencies which might give rise to a conflict of interest. Therefore, nothing in the Regulation of Conflicts of Interest and Lobbying Law prevents a person who teaches in one school district from being a board member in another school district.

There are, of course, possibilities of conflicts of interest that could arise from the above facts. However, this office could not express an opinion on those matters unless supplied with a specific fact situation. Examples of this can be seen in the Opinions of the Attorney General, No. 26, Sloan, 3/8/66; No. 428, Lawson, 12/1/66; and No. 188, Downs, 10/3/68, attached to this opinion for your information.

CONCLUSION

It is the opinion of this office that a resident of one school district who is employed as a full time teacher in another school district can serve in the position of school board member in the district in which he resides without violating the provisions of the Conflict of Interest Law, Sections 105.450 to 105.495, RSMo Supp. 1967.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosures:

- Op. No. 26, Sloan, 3/8/66
- Op. No. 428, Lawson, 12/1/66
- Op. No. 188, Downs, 10/3/68