



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

WILLIAM L. WEBSTER
ATTORNEY GENERAL

P. O. Box 899
(314) 751-3321

March 21, 1985

OPINION LETTER NO. 54-85

The Honorable Doug Harpool
Representative, District 134
State Capitol Building
House Post Office
Jefferson City, Missouri 65102



Dear Representative Harpool:

This letter is in response to your question asking:

May a school board establish a contract for teachers' services with a salary schedule and ranges for each teacher classification on or before April 15 of each year and may the determination as to the salary within the range be made prior to the performance of services under the contract but after April 15?

The Teacher Tenure Act, Sections 168.102 to 168.130, RSMo 1978 and Supp. 1984, contains the following provisions:

Section 168.106(2), RSMo 1978, provides that "indefinite contracts" (defined at Section 168.104(3), RSMo Supp. 1984, as every contract between a school district and a permanent teacher) continue in effect for an indefinite period, subject to modification by a succeeding indefinite contract or contracts.

Section 168.108, RSMo 1978, provides in part that every indefinite contract contains the following provision:

"It is further agreed by the parties hereto that this contract shall continue in force from year to year, until modified or terminated in accordance with the provisions of sections 168.102 to 168.130,

The Honorable Doug Harpool

RSMo, and any amendments thereto prior to the date of this contract." [Emphasis added.]

Section 168.110, RSMo 1978, states:

The board of education of a school district may modify an indefinite contract annually on or before the fifteenth day of April in the following particulars:

(1) Determination of the date of beginning and length of the next school year;

(2) Fixing the amount of annual compensation for the following school year as provided by the salary schedule adopted by the board of education applicable to all teachers.

The modifications shall be effective at the beginning of the next school year. All teachers affected by the modification shall be furnished written copies of the modifications within thirty days after their adoption by the board of education. [Emphasis added.]

In Opinion Letter No. 6-85 this office concluded that the granting of bonuses to teachers for services already contracted for is prohibited by Article VI, Sections 23 and 25, Missouri Constitution. However, if the salary schedule referred to in Section 168.110(2), RSMo 1978, provides for a range of pay such salary schedule is compensation for services provided and is not a grant.

For example, if on or before April fifteenth of a particular year a permanent teacher has an indefinite contract to provide services for the school year beginning in August of a particular year and under the applicable salary schedule such teacher is entitled to ten thousand dollars per annum, the board of education is prohibited from subsequently granting the teacher a bonus for services already contracted for under Article VI, Sections 23 and 25, Missouri Constitution.

However, in answer to your precise question, if on or before April fifteenth of a particular year a permanent teacher has an indefinite contract to provide services for the school year

The Honorable Doug Harpool

beginning in August of a particular year and under the applicable salary schedule such teacher is entitled to a range of compensation, e.g., ten thousand to twelve thousand dollars per annum, the board of education may increase the teacher's compensation within the limits of the salary schedule, before services are performed and after April 15 of that year because such is not a grant prohibited by the Constitution of Missouri.

It is also our view that it may be preferable in drafting such a contract to include, if possible, some formula for determining the precise salary figure at a given point of time, based, if necessary, on relevant contingencies.

Yours very truly,



WILLIAM L. WEBSTER
Attorney General

Enclosure:

Opinion Letter No. 6-85