

STATE BOARD OF TRAINING SCHOOLS:
RESIDENCE:

Employees of Board not required
to be residents; officers ap-
pointed by Board, except those
who are specialists, must have
resided in state for one year.

May 14, 1948

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5-17

State Board of Training Schools
Jefferson City, Missouri

Attention: James C. Neagles
Assistant Director

Gentlemen:

This is in reply to a letter from the Assistant Director
of Training Schools requesting the opinion of this department
for the State Board of Training Schools. The letter reads,
in part, as follows:

"In an attempt to improve the quality
of the personnel of the three training
schools under our jurisdiction, we
often find it difficult to recruit the
type of employees we need when we con-
fine ourselves to residents of Missouri.
At present we have a number of applicants
for positions who possess fine qualifica-
tions, but they are not residents of this
state. There is a doubt in our minds
whether we must reject them.

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"In view of the above, my board has in-
structed me to request that you clarify
our position in the matter of our rela-
tionship to the department of corrections
insofar as the employing of personnel who
are not residents of Missouri is concerned."

The Department of Corrections, consisting of three divi-
sions, was created and established by an act of the General
Assembly, found in the Laws of Missouri, 1945, page 723.

It is provided by Section 38, Article IV of the Constitu-
tion, that all state training schools and industrial homes for

boys and girls shall be classified as educational institutions and shall be in charge of a board of trustees. Section 20 of the above act of the General Assembly, implementing Section 38, Article IV of the Constitution, creates a State Board of Training Schools which shall have charge and control of all training schools and industrial homes for boys and girls of this state. Such schools were therein classified as educational institutions.

By Section 21 of said act, and pursuant to Section 12, Article IV of the Constitution, the State Board of Training Schools was assigned to the Division of Educational Institutions in the Department of Corrections. It was provided, however, that said Board was not subject to orders of the director of said Department of Corrections and had only such relationship with said department as is set out in said act.

According to Section 4 of said act, all employees of said department shall be citizens of this state. Section 4 is as follows:

"All employees of the department of corrections shall be persons of good character and integrity, and citizens of this state. Below the rank of director and assistant director, all employees shall be selected on the basis of merit as provided by law."

However, Section 30, found in that part of said act directly pertaining to the State Board of Training Schools and relating to the various training schools, sets out the same qualifications for employees of said Board as are provided in Section 4 for employees of the Department of Corrections, with the one exception that Section 30 does not contain the requirement that the employees shall be citizens of Missouri. Said section provides:

"It shall be the duty of the board of training schools to select and employ all employees on a basis of merit as provided by law, and who shall be persons of recognized good character and integrity."

The question is, therefore, which of these provisions should be applied to employees of the various state training schools. We believe that Section 30 is controlling. Section 4 could

hardly be held applicable because it relates only to the Department of Corrections which is separate from the State Board of Training Schools. The act itself sets out, and the Constitution contemplates, this separation. The only relationship which exists is that which is set out in said act. This statutory relationship is slight and concerns only the release on parole of juveniles committed to said Board. The Board is authorized to call on the Board of Probation and Parole, which constitutes the third division in the Department of Corrections, for pre-parole assistance and for supervision of parolees after release. The relationship certainly does not warrant the application of the provisions of Section 4 to said Board of Training Schools or any of the institutions under its control.

The special provision in the training school law was intended by the General Assembly to be controlling or it would not have been included there. We believe the fact that a residence requirement was not included in Section 30 is highly significant and is conclusive on the question under consideration as far as that section is applicable.

The ascertainment of the intention of the General Assembly is the primary factor in the construction of statutes. *Turner v. Kansas City*, 191 S. W. (2d) 612, l.c. 617. Our conclusion is reached by putting the plain and rational meaning on the language of the statute in order to promote its object and purpose. *Donnelly Garment Co. v. Keitel*, 193 S. W. (2d) 577, l.c. 581; *Haynes v. Unemployment Compensation Commission*, 183 S. W. (2d) 77, l.c. 81. Such a residence requirement cannot be read into Section 30 because it is fundamental that provisions not plainly written or necessarily implied from what is written will not be inserted or interpolated therein when otherwise upon the face of the act it would not appear. *Allen v. St. Louis-San Francisco R. Co.*, 90 S. W. (2d) 1050, l.c. 1053; *State v. Allen*, 128 S. W. (2d) 1040, l.c. 1043; *Sayles v. Kansas City Structural Steel Co.*, 128 S. W. (2d) 1046, l.c. 1051. The language of said section is plain and unambiguous and must be given effect as written. We cannot search for a meaning beyond the statute itself. *St. Louis Amusement Co. v. St. Louis County*, 147 S. W. (2d) 667; *State v. Phillips Pet. Co.*, 160 S. W. (2d) 764, l.c. 769.

A somewhat analogous situation is presented with regard to the State Board of Education for the reason that the training schools are classified as educational institutions and are

assigned to the Division of Educational Institutions in the Department of Corrections. It is provided in Section 2(b), Article IX of the Constitution, that the State Board of Education shall, upon the recommendation of the Commissioner of Education, appoint the professional staff of the department. An identical provision is found in the Laws of Missouri, 1945, page 1639, Section 8, which implements that section of the Constitution. No provision requiring employees to be citizens of the state is found in the laws relating to that department, nor is such a provision contained in the laws creating and setting up the Merit System, found in Laws of Missouri, 1945, page 1157.

We now direct your attention to Section 8, Article VII of the Constitution, which we believe is applicable to the question under consideration. Said Section 8 provides:

"No person shall be elected or appointed to any civil or military office in this state who is not a citizen of the United States, and who shall not have resided in this state one year next preceding his election or appointment, except that the residence in this state shall not be necessary in cases of appointment to administrative positions requiring technical or specialized skill or knowledge."

It appears that the above provision being a part of the organic law of the state is controlling over said Section 30 with regard to all officers as distinguished from employees, except those officers who are required to have technical or specialized skill or knowledge. Section 30, of course, sets forth the general qualifications that must be possessed by all persons employed by the State Board of Training Schools, and it necessarily follows, in view of Section 8, Article VII of the Constitution, that said Section 30 also applies to all offices which require technical or specialized skill or knowledge.

Conclusion.

In view of the foregoing, it is the opinion of this department that employees of the State Board of Training Schools are not required to be residents of this state.

It is further the opinion of this department that officers appointed by the State Board of Training Schools, except those officers possessing technical or specialized skill or knowledge, must have resided in this state one year next preceding their appointment.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR *J.E.*
Attorney General

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