



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

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STEVE CLARK
ATTORNEY GENERAL

OPINION NO. 85-131

June 17, 1985

Hon. Henry J. Osterloh
State Representative
1314 Starfield
North Little Rock, AR 72116

Dear Rep. Osterloh:

This is in response to your opinion request wherein you posed the following inquiry:

Can a school district contract with a teacher then release the teacher from all duties for the purpose of representing the teacher association and conducting association business full time? One Hundred percent (100%) of the salary and social security will be repaid by the teacher organization to the school district. All other benefits, i.e., retirement, insurance, etc. will be borne by the district and the state. Service as president will count toward seniority, salary increases and other benefits will accumulate just as though the teacher were teaching. Upon completion, the teacher will return to the teacher's present assignment.

The basic question is whether or not any state laws are being broken or avoided in a situation such as this.

Although there are no laws which are clearly dispositive of the question you posed, Amendment 40 of the Arkansas Constitution contains language which would advise against the situation in question.

Amendment 40, Article 14, Section 3, Amendment No. 11 amended, provides in pertinent part as follows:

Provided, that no such tax shall be appropriated for any other purpose nor to any other district than that for which it is levied.

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Obviously, the money with which the teacher in question will be paid was appropriated for teaching services. Hence, since the teacher in question will not be providing the instructional services contemplated, this Office must advise against the arrangement you have described.

This opinion, which I hereby approve, was prepared by Assistant Attorney General C. Randy McNair, III.

Sincerely,


STEVE CLARK
Attorney General

JSC:CRM:jk