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CONTRACT—CONTINUING—TEACHER—TEACHER ACTING AS PRINCIPAL, LOCAL SCHOOL DISTRICT—UPON RECOMMENDATION OF COUNTY SUPERINTENDENT, PRINCIPAL MAY BE TRANSFERRED TO TEACHING POSITION—SECTION 4842-9 GC.

SYLLABUS:

Where a teacher holding a continuing contract, has for a time been acting as principal of a local school district, and it is desired by the board of education to transfer him to a teaching position, such action may be taken under the provisions of Section 4842-9 of the General Code, but only upon the recommendation of the county superintendent.

Columbus, Ohio, June 18, 1953

Hon. Calvin W. Hutchins, Prosecuting Attorney
Ashtabula County, Jefferson, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

“Mr. K. was employed as a teacher and principal by the Board of Education of Andover Local School District, Ashtabula County, Ohio, in September, 1930. He is now serving under a continuing contract, dated March 12, 1942. On July 11, 1947, an additional contract was entered into between the Board and the teacher, which provided in part as follows:

‘The said teacher hereby agrees to teach and act as executive head of the public schools of said district for a term of five years.’

“This latter contract was renewed by resolution adopted by the Board at its January meeting of 1952.

“We are advised that the appointment of Mr. K., as executive head, was the action of the Board of Education. His appointment as executive head had not been recommended by the County Superintendent of Schools. The question of such appointment had not been discussed with the County Superintendent of Schools, and the appointment in 1952 was not brought to his attention until some six weeks after it had been made.

“The Board of Education of Andover Local School District now wishes to demote Mr. K. from his position as Executive Head, to that of a teacher. We understand that had the Board acted upon the recommendation of the County Superintendent of

Schools, Mr. K. could not be removed from his position as executive head except upon the recommendation of the Superintendent of the County School System.

“No recommendation of his appointment having been given, can the Board now demote the acting head to a teaching position?”

I note from your letter that the teacher in question was employed as a teacher and *principal*, in September, 1930, and that in 1942 he was given a continuing contract. In 1947 the board undertook to make him what they called, “executive head of the public schools of said district”, and entered into some kind of an agreement with him to that effect. I also understand that this was done without the express recommendation of the county superintendent.

At that time, there was no express provision in the law for the appointment of a teacher or principal as “executive head”, and I can not see that that action of the board could have amounted to anything more than possibly an enlargement of his duties. I understand that for some years, the district has maintained a high school as well as an elementary school all under the same roof, and operated as one unit, and I assume that the duties of the so-called “executive head” would be to supervise this entire school.

Effective August 17, 1951, Section 4842-1, General Code, was amended, the last two sentences reading as follows:

“* * * The board of education of each city, exempted village and local school district shall appoint principals for all high schools and for such other schools as the board may designate. Upon recommendation of the county superintendent, a local board of education may designate a principal as executive head who may be employed as such by said board for a period of twelve months.”

The last sentence, giving a local board of education the right to “designate the principal as executive head,” was added by the amendment. It will be noted that when this is done he may be employed as such by the board for a period of twelve months, and it is further to be noted that this can only be done upon the recommendation of the county superintendent.

It would appear, therefore, that the action of the Board in 1947 amounted to nothing except by way of designating the duties of the principal, and that the action taken in January, 1952, subsequent to the amendment of Section 4842-1, purporting to renew the appointment of

1947, was of no effect because it was not recommended by the superintendent. Furthermore, even though so recommended, such a designation would only have been effective for a period of twelve months.

Regardless of the past status of this teacher as "executive head," his original appointment as *principal* of the schools of the district has continued to the present time, and can only be changed upon the recommendation of the Superintendent.

Section 4842-9, General Code, provides the only process by which a principal can be demoted to the position of a teacher. That section provides in part as follows :

"A teacher employed as assistant superintendent, *principal*, supervisor or other administrative head *may be transferred* to a lesser administrative position or *to a teaching position upon recommendation of the superintendent of schools* and approval of the board of education."
(Emphasis added.)

Accordingly, you are advised that where a teacher holding a continuing contract, has for a time been acting as principal of a local school district, and it is desired by the board of education to transfer him to a teaching position, such action may be taken under the provisions of Section 4842-9 of the General Code, but only upon the recommendation of the county superintendent.

Respectfully,

C. WILLIAM O'NEILL
Attorney General