

OPINION NO. 68-008**Syllabus:**

1. A state supported college or university does not have the authority to enter into an agreement with an employee organization to grant higher pay ranges for classified employees, nor does it have authority, under Section 143.09 (M), Revised Code, to unilaterally grant higher pay ranges for classified employees until it has received approval from the state employee compensation board.

2. Under the provision of Section 143.09 (M), Revised Code, when requesting an increase in compensation for classified employees, a state college or university must submit separate requests to the state employee compensation board for particular classes of employees rather than submit a blanket request covering more than one class.

To: Wayne Ward, Director, Department of State Personnel, Columbus, Ohio
By: William B. Saxbe, Attorney General, January 10, 1968

I have before me your request for my opinion which reads as follows:

"Your opinion is respectfully requested on certain questions arising from the interpretation of Section 143.09 (M) and Section 143.01 of the Revised Code, both of which were recently enacted by amended Substitute House Bill 93 of the 107th General Assembly.

"The questions are as follows:

"1. Does a state supported College or University have the authority to enter into an agreement with an employee organization to grant higher pay ranges for classified employees before it has received the approval of the employee compensation board?

"2. Can a state supported College or University submit a blanket request covering more than one class for assignment to higher pay ranges or must it submit separate requests for particular classes?"

Section 143.09 (M), Revised Code, reads as follows:

"With respect to officers and employees of state-supported colleges and universities, except for the powers and duties, of the state personnel board of review, the powers, duties and functions of the department of state personnel and the director of state personnel specified in Chapter 143. of the Revised Code are hereby vested in and assigned to the personnel departments of such colleges and universities. Section 143.09 of the Revised Code does not limit the authority of such colleges and universities with the approval of the state employee compensation board to compensate all employees in a particular classification at a pay range higher than that provided in section 143.09 of the Revised Code." (Emphasis added)

Section 143.101, Revised Code, establishes the state employee compensation board and provides, in pertinent part, that:

"* * * The board shall have authority to assign any of the classes established by division (A) of section 143.09 of the Revised Code or established by the director of state personnel under division (C) of section 143.09 of the Revised Code to higher pay ranges, either on a state wide basis, in particular counties of the state, or at particular state institutions. The board shall have the authority to assign all of the classes established by section 143.09 (C) to lower pay ranges on a state wide basis if the board determines that such a lower assignment of all classes is advisable. The board may take action either upon request of an appointing authority or on its own initiative and employees, appointing authorities, and representatives of employee organizations shall have the opportunity to appear and offer evidence at any meetings of the board. * * *"

In Opinion No. 67-083, Opinions of the Attorney General for 1967, page 2-143, I considered the question of the authority of the Ohio State University to enter into a contract with a union, which contract would provide for wages, hours and certain other conditions of employment for university employees. In that opinion I advised that the Ohio State University may not enter into a contract with a labor union providing for wages, hours or other conditions of employment for University employees because there is no authority for the University to enter into such an agreement with a union for the reason that Sections 143.10 and 143.11, Revised Code, mandatorily provide for wages and hours of University employees.

In answer to your first inquiry, Section 143.09 (M), supra, provides that state supported colleges and universities must receive the approval of the state employee compensation board

in order to compensate all employees in a particular classification at a pay range higher than that provided in Section 143.09, Revised Code. Section 143.101, Revised Code, further provides that the employee compensation board shall have authority to assign any of the classes to higher pay ranges either upon the request of the appointing authority or on its own initiative.

Therefore, in accordance with Opinion No. 67-083, supra, it is clear that a state supported college or university does not have the authority to enter into an agreement with an employee organization to grant higher pay ranges for classified employees, nor does it have authority, under Section 143.09 (M), supra, to unilaterally grant higher pay ranges for classified employees until it has received approval from the state employee compensation board.

In answer to your second inquiry, Section 143.09 (M), supra, provides that such colleges and universities may, with the approval of the board, authorize compensation at a higher pay range to all employees in a "particular classification". Such language is a clear pronouncement that state colleges and universities must submit separate requests for particular classes rather than submit a blanket request covering more than one class.

Therefore, it is my opinion and you are hereby advised that:

1. A state supported college or university does not have the authority to enter into an agreement with an employee organization to grant higher pay ranges for classified employees, nor does it have authority, under Section 143.09 (M), Revised Code, to unilaterally grant higher pay ranges for classified employees until it has received approval from the state employee compensation board.

2. Under the provision of Section 143.09 (M), Revised Code, when requesting an increase in compensation for classified employees, a state college or university must submit separate requests to the state employee compensation board for particular classes of employees rather than submit a blanket request covering more than one class.