

OPINION NO. 1016

Syllabus:

A board of education must give notice of intention not to re-employ an executive head on or before the 30th day of April of the year in which his contract expires.

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To: Dennis J. Callahan, Lawrence County Pros. Atty., Ironton, Ohio
 By: William B. Saxbe, Attorney General, May 1, 1964

I have your request for my opinion which reads in pertinent part as follows:

"In the event a board of education does not wish to reemploy an Executive-Head, is it necessary that the board of education give him written notice to that effect on, or prior to March 1st, of the year in which his contract expires?"

I assume that the contract in question is a limited contract in view of your statement that such contract will expire. Continuing contracts have no fixed expiration date. See Section 3319.08, Revised Code. Section 3319.01, Revised Code, referred to in your letter of request, refers specifically to the position of superintendent. The March 1st date mentioned therein applies, therefore, only to superintendents and not to executive heads.

"Teacher" is defined by Section 3319.09, Revised Code, as follows:

"As used in sections 3319.08 to 3319.18, inclusive, of the Revised Code:

"(A) Teacher means any persons certified to teach and who are employed in the public schools of this state as instructors, principals, supervisors, superintendents, or in any other education position for which the employing board requires certification.

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"Any teacher employed under a limited contract, and not eligible to be considered for a continuing contract, is, at the expiration of such limited contract, deemed, re-employed under the provisions of this section at the same salary plus any increment provided by the salary schedule unless the employing board, acting on the superintendent's recommendation as to whether or not the teacher should be re-employed, gives such teacher written notice of its intention not to re-employ him on or before the thirtieth day of April. Such teacher is presumed to have accepted such employment unless he notifies the board in writing to the contrary on or before the first day of June, and a written contract for the succeeding school year shall be executed accordingly. The failure of the parties to execute a written contract shall not void the automatic re-employment of such teacher."

It is my opinion that an executive head is included within the definition of "teacher" as defined by Section 3319.09, Revised Code, in that an executive head is required to be certified. See Section 3319.22, Revised Code. In the first syllabus of State ex rel. Brown v. Board of Education, Pleasant Local School District, 162 Ohio St., 589, the court stated:

"1. Under the provisions of Section 4842-8,

General Code (Section 3319.11, Revised Code), any teacher employed under a limited contract shall at the expiration of such limited contract be deemed re-employed unless the employing board shall give such teacher written notice of its intention not to re-employ him or her on or before the 30th day of April or 30 days prior to the termination of such teacher's school year, whichever date occurs the earlier."

In specific answer to your question, it is my opinion and you are so advised that a board of education must give notice of intention not to re-employ an executive head on or before the 30th day of April of the year in which his contract expires.