



STATE OF ARKANSAS

Office of the Attorney General

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Opinion No. 94-105

June 2, 1994

The Honorable Jim von Grep
State Representative
P.O. Box 866
Bentonville, Arkansas 72712-0866

Dear Representative von Grep:

This is in response to your request for an opinion on two questions involving school districts. Your questions are as follows:

1. Is Senate Bill 570 of 1993 legal? It seems to me there is a terrible conflict of interest written into this Bill.
2. Apparently, the Fayetteville Public School Board has endorsed the National Education Association (NEA) and the Arkansas Education Association (AEA) as the sole labor union authorized to represent the Fayetteville Public Schools. Is this legal?

Senate Bill 570 of 1993 became Act 1151 of 1993. It provides that no school district shall deny a teacher the opportunity to attend instructional staff development sessions of the annual Arkansas Education Association convention. See in this regard, Op. Att'y Gen. 93-380. In my opinion the act is "legal" unless the act is in some way unconstitutional. Of course, the legislature has absolute power to legislate in all fields unless prohibited or restricted from doing so by the state constitution, the United States Constitution, or unless authority to so act has been delegated to and exercised by the federal government. See *Hooker v. Parkin*, 235 Ark. 218, 357 S.W.2d 534 (1962). I can find nothing

about A.C.A. § 6-17-702 which is unconstitutional or federally preempted. It is thus my opinion that it is "legal."

It is my opinion that the answer to your second question is "yes." Section 6-17-203 of the Arkansas Code requires each school district to have a "personnel policies committee" whose function it is to review existing personnel policies and propose new ones. Section 6-17-202 provides, however, that:

The provisions of this subchapter shall not apply in any district which chooses to officially recognize in its policies an organization representing the majority of the teachers of the district for the purpose of negotiating personnel policies, salaries, and educational matters of mutual concern under a written policy agreement.

Thus, assuming the National Education Association and the Arkansas Education Association represent a majority of teachers in the district, it is "legal" for the district to recognize these associations for the purpose of negotiating with teachers.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Elana C. Wills.

Sincerely,



WINSTON BRYANT
Attorney General

WB:cyh