

you know, where an employee of the State does enroll in your retirement system and has served the State previously to such enrollment, he may be given credit for such prior service upon making back payments; and by Section 43:14-2.9, one who has been temporarily employed by the State and whose temporary employment resulted in permanent employment is permitted to make contributions covering his temporary service so that he will get the benefit of the period of time covered by such temporary employment.

It is true that under R. S. 43:14-19 employees entering the classified service of the State on and after January 1, 1922, are subject to the provisions of your Retirement Act and that there is cast upon the employer the duty of informing the employee of his duties and obligations under your act as a condition of his employment. This section, however, imposes no duty upon your trustees and in nowise modifies the view which I entertain and which I have expressed herein.

One can imagine that where enrollment was deferred for a year or two by reason of the fact that information was not furnished to your commission of the employment of a person in the classified service, that deductions, if made from one payment alone, or possibly two or three payments, might exhaust the entire income of the person for a given month and thus leave such person without any visible means of support.

I suggest that you promptly contact the Civil Service Commission and request from that Commission that when future appointments are made from a civil service list that your commission may be notified so that you may immediately communicate with the head of the department and obtain the necessary information to enroll such member after the expiration of the working test or the period of time mentioned in R. S. 43:14-2.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General,*

TB:B

NOVEMBER 14, 1949.

DR. JOHN H. BOSSHART,  
*Commissioner of Education,*  
175 West State Street,  
Trenton, New Jersey

FORMAL OPINION—1949. No. 102.

DEAR DR. BOSSHART:

You have requested our opinion as to whether, under the Fair Labor Standards Act of 1938 as amended by the Fair Labor Standards Amendments of 1949, the State of New Jersey is legally bound, in awarding "work scholarships" to students at State Teachers Colleges, to allow credit for work performed at a rate of not less than 75c per hour. It is understood that a work scholarship consists of giving credit

toward the payment of tuition in consideration of services performed by the student under the direction and control of, and for the sole benefit of, the State Teachers College where he is enrolled.

It is my opinion that the law in question does not apply to such work scholarships, since the Act excludes from its operation individuals employed by "any State or political subdivision thereof" (U.S.C.A. Section 203 (d)). The State Teachers Colleges are established, owned and operated by the State government through the Department of Education (N.J.S.A. 18:16-20), and in rendering services to such an institution, the student is performing work for the State within the meaning of the above-cited section of the Fair Labor Standards Act.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General.*

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OCTOBER 24, 1949.

HONORABLE SANFORD BATES, *Commissioner,*  
*Department of Institutions and Agencies,*  
State Office Building,  
Trenton, New Jersey

FORMAL OPINION—1949. No. 103.

MY DEAR COMMISSIONER:

You desire formal advices from this office respecting certain questions relating to the administration of the work of the State Board of Child Welfare, an agency coming within the jurisdiction of your department.

The questions will be answered in the order raised and in the interest of brevity the question will be restated in shorter form.

1. You desire to be advised whether county welfare boards are authorized to issue orders requiring legally responsible relatives to support children who are applicants for or recipients of assistance under your Home Life division.

This question must be answered in the negative for there is nothing contained in Chapter 5, Title 30, Article 4, relating to Home Life of Dependent Children, which authorizes the county welfare board to proceed to the issuance of an order of support contemplated by your question. It is true that the county welfare board has such authority under Chapter 7, Title 44, Revised Statutes, but this authority confines itself solely to the administration of the affairs of the granting of Old Age Assistance, under a separate and distinct division of your department which has no relationship to the category of assistance here under discussion. In the absence of specific language in the statute, it cannot be presumed that the Legislature intended the functions of the welfare board, under Chapter 7, Title 44, to be carried over into Chapter 5, Title 30, Revised Statutes. This for the reason that the county welfare board is a creature of the Legislature and can only carry out the specific duties and respon-