

Opinion No. 92

**Apprenticeship Council, Authority of—
Boards of Vocational Education,
Duties of—State Board of
Education, Authority of**

- Held:**
1. The state and local boards responsible for vocational education have the responsibility of furnishing and providing related and supplemental instruction for apprentices, and the coordination of instruction with job experience, and the selection and training of teachers and coordinators for such instruction.
 2. The state board of education is designated as the state board for vocational education and has the authority to make all rules and regulations governing the establishment, conduct and administration of vocation courses, including the power to fix the qualifications of instructors and the course of study to be followed, in conformity with the requirements of the federal board of vocational education.
 3. The Apprenticeship Council is authorized to make rules and regulations, but such rules and regulations must be limited in their purpose and effect as aid in the administration of the law.
 4. It was the purpose and intent of the legislature that all departments of state and federal government concerned with the administration of the act, or its fulfillment, to cooperate to the fullest extent within their respective fields, to the end that the apprentice may receive the full benefits of the act.

January 6, 1948

Montana State Apprenticeship
Council
Mr. James B. O'Brien, Chairman
State Capitol
Helena, Montana

Dear Sir:

You have submitted the following questions for my opinion:

"1. Is the Montana State Apprenticeship Council as a whole, responsible for providing 'related and supplemental instruction for apprentices', including the selection of teachers, providing textbooks, outlining the classroom curricula and other such similar factors, or does this entire responsibility rest with state and local boards responsible for vocational education?"

"2. Is there a State Vocational Education Department or some other Department or Division of the State Government who might have the responsibility of providing such related and supplemental instruction for apprentices? If so, what is the official name of the Department or Division?"

"3. If there is such a State Department or Division of Vocational Education, is it directly under the supervision of the State Superintendent of Public Instruction or the State Board of Education, or is there some other Department, Board, Bureau or Division under which the Department of Vocational Education operates? If so, what is the name and officers of such a Department, Board, Bureau or Division?"

"4. Does the Council have the authority to issue rules and regulations as may be necessary to carry out the intent and purposes of the act, which in the opinion of the Council would rebound to the benefit and protection of the apprentices and the industry involved as a whole?"

"5. Is it the intent and purpose of the Act to cause governmental agencies such as the Council itself, the Federal Apprentice Training Service or Federal Committee on Apprenticeship, the State Department of Vocational Education, the Federal Veterans Administration, the State Superintendent of Public Instruction and the State Board of Education to cooperate with each other, causing bona fide apprentice training to come about and related instruction for apprentices to become a possibility in fact? If, for example, related instruction is not being provided apprentices by the Vocational Education Departments

and the apprentices suffer because of the lack of such supplemental related instruction, then should not the Council as a whole, as well as the other governmental agencies, do whatever be within their power and through legal means to cause the State Department of Vocational Education and the Local Coordinators for Vocational Education to bring about related instruction for apprentices?"

As to your first question, I call your attention to Section 2(5) of Chapter 149, Laws of 1941, which provides as follows:

"Related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of state and local boards responsible for vocational education."

It is quite clear from the above provision that your Council has no responsibility or authority to provide related and supplemental instruction for apprentices, nor the selection of teachers, furnish textbooks, or any other matter relative to providing these educational facilities. This is specifically made the responsibility of the state and local boards responsible for vocational education.

Your second and third questions may be considered together.

By Chapter 148, Laws of 1931, now Sections 1262.93 to and including 1262.100, Revised Codes of Montana, 1935, as amended by Chapter 160, Laws of 1939, the legislature reaffirmed the state's acceptance of the Act of Congress providing for promotion of vocational education in the several states. By said Chapter 148, the state board of education was given authority, "to adopt all necessary rules and regulations governing the establishment, conduct and administration of vocational courses, including the power to fix the qualifications of instructors and the course of study to be followed. . . ." The Act also provides for the appointment of an advisory committee consisting of four citizen members representing the manufacturing

and commercial interests, the agricultural interests, skilled labor and home making interests, and the state superintendent of public instruction or, a person designated by the state superintendent. The board is directed to cooperate with the several boards of trustees of school districts and of county high schools in the establishment and maintenance in the public elementary and high schools, appropriate courses for vocational training in agriculture, home economics, the trades and industries and commercial branches.

The State Superintendent of Public Instruction is the executive officer of the vocational board and is charged with the responsibility for the administration of all the laws of Montana relating to vocational education, and the rules and regulations promulgated by the board.

The state board of education, therefore, is constituted the state board for vocational education.

Chapter 160, Laws of 1939, authorizes the state board for vocational education to designate any district high school, county high school or high school district maintaining a vocational training department as a vocational center. This chapter also provides that all rules and regulations governing admission to such centers shall be promulgated by the state board for vocational education.

As to your fourth question, Section 1(b) (2), of Chapter 149, Laws of 1941, provides:

"(2) . . . issue such rules and regulations as may be necessary to carry out the intent and purposes of this act; . . ."

The Council, therefore, is authorized to make rules and regulations as are necessary to carry out the intent and purposes of the Act. In the case of *McFatrige v. District Court*, 113 Mont. 81, 88, 122 Pac. (2d) 834, our Supreme Court in speaking of the power and authority of the Montana Liquor Control Board to make rules and regulations under a similar provision in the Liquor Control Act as the above, said:

"The board is an administrative body, functioning as a bureau of the

executive department of the state government. It has no lawmaking power. Any attempt to create for itself authority and discretion not given by the legislature must fail. **The board is authorized to make rules and regulations, but these must be limited in their purpose and effect as aid in the administration of the law.**" (Emphasis mine).

Your Council may, therefore, make rules and regulations, but such must be limited in their purpose and effect as aid in the administration of the law.

It is very apparent from a reading of the provisions of the Apprenticeship Act that the legislature intended its administration to be in conformity and in conjunction with the federal legislation on apprenticeship. In providing for the personnel of the Council and its composition, it would seem clear that the intent was to have all those departments of state government represented in such council to work together in their respective fields to carry out the purposes and intent of the law to the end that the apprentice be given the full benefits therein provided. It is only by the full cooperation of all those departments mentioned in your fifth question that the purpose of the act may be fully carried out and those intended to be benefited thereby receive all benefits intended.

It is, therefore, my opinion:

1. The state and local boards responsible for vocational education have the responsibility of furnishing and providing related and supplemental instruction for apprentices, and the coordination of instruction with job experience, and the selection and training of teachers and coordinators for such instruction.

2. The state board of education is designated as the state board for vocational education, and has the authority to make all rules and regulations governing the establishment, conduct and administration of vocational courses, including the power to fix the qualifications of instructors and the course of study to be followed, in conformity with the requirements of the federal board of vocational education.

3. The Apprenticeship Council is authorized to make rules and regulations, but such rules and regulations must be limited in their purpose and effect as aid in the administration of the law.

4. It was the purpose and intent of the legislature that all departments of state and federal government concerned with the administration of the act, or its fulfillment, to cooperate to the fullest extent within their respective fields, to the end that the apprentice may receive the full benefits of the act.

Sincerely yours,
R. V. BOTTMLEY,
Attorney General