

Opinion No. 108.**Teachers — Teachers Associations —
Montana Education Association—
Montana Federation of Teach-
ers—School Trustees.**

HELD: 1. There may be one or more teachers' associations within this state and the members of one association have equal rights with those members of a similar state-wide teachers' association.

2. Where a school is closed for any teachers' association convention, all teachers in the school are entitled to receive pay for such days.

December 16, 1954.

Mr. Irving C. Pearson
County Attorney
Deer Lodge County
Anaconda, Montana

Dear Mr. Pearson:

You have advised me that the trustees of your school district closed the school for one day to permit teachers to attend the annual convention of the Montana Federation of Teachers, and you request my opinion as to whether members of this group have the same rights as members of the Montana Education Association.

In Opinion No. 9, Volume 25, Opinions of the Attorney General, it was held:

"A board of trustees of a school district which elects to close its school during the annual session of the State Teachers' Association does not have authority to withhold the pay of its teachers during the days school is closed for such meeting, regardless of the teachers' membership in the association or attendance at its annual session."

While it is true that the Montana Education Association has been operating and in existence in this state for a greater number of years than the Montana Federation of Teachers, yet both are similar in nature and purpose, and both are state-wide organizations. Sub-section 22 of Section 75-1632, R. C. M., 1947, as amended by Chapter 207, Laws of 1951, grants the power to school trustees:

"22. To close school at their discretion during the annual session of the State Teachers' Association, and to allow teachers to attend the same without loss of salary."

This statute does not name any particular association of teachers and if it did, there would be some doubt as to its constitutionality as Section 26 of Article V of the Montana Constitution requires that where a general law can be made applicable, no special law shall be enacted. In *State ex rel. Redman v. Meyers*, 65 Mont. 124, 210 Pac. 1064, our court said of this constitutional provision:

". . . Interdicted class legislation includes all laws that rest upon some false or deficient classification, and the vice in such laws is that they do not embrace all of the class to which they are naturally related . . ."

Also, sub-section 22 of Section 75-1632, supra, is in general terms and the construction of this law to the effect that some particular teachers' association was intended to be the only organization recognized by this Act would violate the express words of the statute.

In *Equitable Life Assurance Company v. Hart*, 55 Mont. 76, 173 Pac. 1062, the case stated that: ". . . a supposed unexpressed intention cannot override the clear import of the language employed . . ."

It is, therefore, my opinion that there may be one or more teachers' associations within this state and that the members of one association have equal rights with those members of a similar state-wide teachers' association.

It is also my opinion that if school is closed for any teachers' association convention, all teachers in the school are entitled to receive pay for such days.