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EMPLOYEES OF A COMMUNITY COLLEGE DISTRICT ARE NOT UNDER THE PROVISIONS OF THE CIVIL SERVICE LAWS—§§3354.09, R.C., 3354.03, R.C., 3354.01, R.C., 143.08, R.C., OPINION 182, OAG 1939, §486-1, G.C.

SYLLABUS:

Employees of a community college district created under Chapter 3354., Revised Code, are not employees of the state, counties, cities, city health districts or city school districts and, therefore, are not subject to Section 143.08, Revised Code, or any other provisions of the state civil service laws.

Columbus, Ohio, June 15, 1962

Hon. John T. Corrigan, Prosecuting Attorney
Cuyahoga County, Cleveland, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Pursuant to provisions of R.C. Sections 3354.01 to 3354.24, the Board of County Commissioners of Cuyahoga County created a Community College District in Cuyahoga County. The Board of Trustees of the College District who were appointed by the County Commissioners are now organized and functioning.

“The Board of Trustees are now in the process of considering the appointment of a paid secretary under the provisions of Section 3354.06 of the Revised Code. The Board is also considering the appointment of some administrative officers and staff as is provided in Section 3354.09 of the Revised Code. Sections 3354.01 to 3354.24 of the Revised Code make no provision as to the applicability of the Civil Service Tenure Act, Chapter 143., of the Revised Code, to the appointment of a secretary, administra-

“A community college district organized pursuant to provisions of section 3354.02 of the Revised Code *shall be a political subdivision of the state and a body corporate with all the powers of a corporation, existence, with power to sue and be sued, to incur debts, liabilities, and obligations, to exercise the right of eminent domain and of taxation and assessment* as provided in sections 3354.01 to 3354.24, inclusive, of the Revised Code, to issue bonds, and to do all acts necessary and proper for the carrying out of the purposes for which the district was created and for executing the powers with which it is invested.

“* * * * * * * * * * * * * * *”

(Emphasis added)

Also, Section 3354.01, Revised Code, reads in pertinent part:

“As used in sections 3354.01 to 3354.24, inclusive, of the Revised Code:

“(A) ‘Community college district’ means *a political subdivision of the state and a body corporate with all the powers of a corporation*, comprised of the territory of one or more contiguous counties having together a total population of not less than one hundred thousand as determined by the last federal decennial census preceding the establishment of such district, and organized for the purpose of establishing, owning, and operating a community college within the territory of such district.

“* * * * * * * * * * * * * * *”

(Emphasis added)

In view of the above language of Sections 3354.03 and 3354.01, Revised Code, I have no doubt that a community college district is a political subdivision on its own, separate and apart from the state or any other political subdivision. The language used makes this clear, and there is no need of further interpretation.

As to what constitutes the civil service of the state, Section 143.08, Revised Code, reads, in part, as follows:

“The civil service of the state and the several counties, cities, city health districts, and city school districts thereof shall be divided into the unclassified service and the classified service.

“* * * * * * * * * * * * * * *”

Referring to the former General Code provision which was the predecessor of Section 143.08, *supra*, it is stated in 9 Ohio Jurisprudence 2d, Section 42, starting on page 353:

“As previously stated a general code provision provides that the term ‘civil service’ shall include ‘all offices and positions of trust or employment in the service of the state and the counties, cities and city school districts thereof.’ In addition, the statute providing for municipal commissions, includes within their jurisdiction city health departments or districts. *It follows, of course, that offices and positions which are not in the service of the state or of one of the political subdivisions named are not included.* Hence the civil service law of Ohio does not apply to offices, positions, and employments in villages or village school districts; nor does it apply to the officers and employees of certain districts, such as the Cleveland metropolitan park district, and a county library district.” (Emphasis added)

On the same subject, in Opinion No. 182, Opinions of the Attorney General for 1939, page 213, one of my predecessors said at page 217:

“Section 486-1, General Code, provides in part as follows:

“‘The term ‘Civil service’ includes all offices and positions of trust or employment in the service of the state and the counties, cities and city school districts thereof.’

“Opinions of previous attorneys general have held that, using the words of Section 486-1 which creates the civil service, the term ‘civil service’ includes all offices and positions of trust or employment in the service of the state and the counties, cities and city school districts and that this specifies what offices and employments are included in the civil service and is exclusive of all others. Under such opinions it has been held that the employes of district tuberculosis hospitals, park commissions, village school districts and county library districts are not subject to civil service because they are districts not co-extensive with the county or city. See Opinions of the Attorney General: 1918, Vol. II, page 1594; 1919, Vol. I, page 217; 1927, Vol. II, page 1006. In the opinion rendered in 1919 at page 221 the following statement is found:

“‘From the foregoing observations it follows that since the officers of the park district are neither county nor state officers, but constitute a distinct agency in the administration of the functions of a special sub-division of the state for particular purposes, I conclude that they are not to be considered as in the service of the state or the counties, cities or city school districts thereof, and, therefore, are not subject to the provisions of the civil service laws.’”

The syllabus of the 1939 opinion reads as follows:

“Employes of the bridge commissions created under Sections 1084-2 to 1084-17, General Code, are not employes of the

state, counties, cities or city school districts and therefore, are not subject to the civil service laws of the State of Ohio.”

As noted above, a community college district is a separate political subdivision of the state, and is, therefore, separate and distinct from the state, counties, cities, city health districts, and city school districts. Accordingly, the employees of such a district, not being employees of any of the political entities referred to in Section 143.08, *supra*, are not subject to the provisions of that section.

In conclusion, it is my opinion and you are advised that employees of a community college district created under Chapter 3354., Revised Code, are not employees of the state, counties, cities, city health districts or city school districts and, therefore, are not subject to Section 143.08, Revised Code, or any other provisions of the state civil service laws.

Respectfully,

MARK McELROY

Attorney General