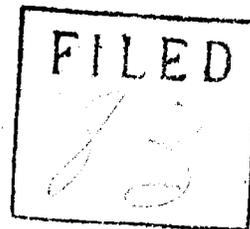


SCHOOLS: First-grade certificate which expired in 1925 or 1926 cannot be renewed by County Superintendent of Schools except under rules and regulations of State Board of Education.

June 14, 1947



Hon. Wayne V. Slankard
Prosecuting Attorney
Neosho, Missouri

Dear Sir:

We have your letter of recent date which reads as follows:

"I would like to have your opinion for the benefit of our County Superintendent of Schools in the interpretation of the 'faithful performance' portion of Section 10628, in regard to renewal certificates.

The facts are that the applicant for a first-grade certificate (renewal) commenced teaching in approximately 1907. He received a first-grade certificate in 1909. Thereafter, in 1912, he received a second-grade certificate, and carried on from then with second or third-grade certificates until the year 1922, when he was issued another first-grade certificate. After this time he discontinued teaching for approximately eight years (held the office of County Assessor during such period). He returned to teaching in the year 1931, and taught under second and third-grade certificates up to and including the year 1942.

He is now applying for first-grade certificate under the provision of the 'grandfather' clause, in Section 10628, and I am rather inclined to believe that he is entitled to the issuance of such certificate, unless his discontinuance of teaching for several years is a failure to comply with the 'faithful performance' clause.

I would like to have your opinion on this as soon as possible."

You refer to the "faithful performance" portion of Section 10628. That provision reads as follows:

"Provided, that any teacher who had had five years' experience in teaching and was employed as a teacher January 1, 1912, and holds a first grade certificate shall have his or her county certificate renewed an unlimited number of times, on condition that said teacher is faithful in the performance of his or her professional duties."

Section 10628, R.S. Mo. 1939, was repealed by the 1945 Legislature, and a new section by the same number was re-enacted in lieu thereof, (L. 1945 P. 1694). The new section 10628 reads as follows:

"The state board of education shall have the authority to prescribe the manner and method for the renewal of county certificates. The county superintendent of public schools shall renew county certificates in conformity with the rules and regulations prescribed therefor by the state board of education. Provided, however, that all county certificates now in force and effect shall be subject to renewal or shall be renewed in accordance with the laws in effect at the time of their issuance."

Since the repeal of Section 10628, R.S. Mo. 1939, the "faithful performance" clause referred to in your letter is no longer in effect. Under the present law, the County Superintendent can only renew county certificates in conformity with the rules and regulations prescribed by the State Board of Education, with the exception that county certificates which were in force at the time said Section 10628 passed by the 1945 Legislature went into effect could be renewed in accordance with the laws in effect at the time of the issuance of such certificates. According to your letter, the certificate you inquire about was issued in 1922. Under the law then in effect regarding such certificates (Section 11358 R.S. Mo. 1919) said certificate was valid for three years only. Since said certificate was not in effect at the time the 1945 act went into effect, it can now be renewed only in accordance with the provisions of Section 10628, Laws 1945, supra. Under said act the County Superintendent can only renew such certificate in accordance with the rules and regulations prescribed by the State Board of Education.

Conclusion

It is, therefore, the opinion of this office that a first grade teacher's certificate issued by a County Superintendent of Schools which expired in 1925 or 1926 cannot now be renewed by the County Superintendent of Schools except under the rules and regulations prescribed therefor by the State Board of Education.

Yours very truly,

Harry H. Kay
Assistant Attorney General

APPROVED:

J. E. Taylor
Attorney General

HHK/vlv.