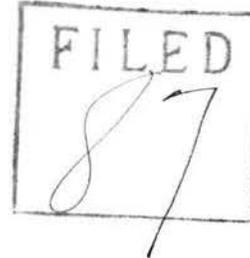


SCHOOLS: Requirement of county superintendent to have state certificate in order to hold office -- "State Certificate" discussed.

5-26
May 23, 1934.



Hon. James O. Stanley
Clerk of the Circuit Court
Ripley County
Doniphan, Missouri

Dear Sir:

This is to acknowledge your letter as follows:

"I'm anticipating becoming a candidate for election to the office of County Superintendent of Schools next April and I want your opinion on Sec. 11343, Art. XI of State School Law as to the qualifications, particularly the part saying they must hold a State Certificate. Does this mean any certificate issued by the State Dept. of Education?

I hold an Elementary Certificate from the State Department; have 108 hrs. credits from University of Mo.; have taught 7 years; and otherwise qualified. I'm anxious to find out these qualifications so if I lack anything, I can prepare before next spring."

The narrow question presented in your inquiry is:
What is meant by a State Certificate?

Section 9454 R. S. Mo. 1929, provides for the qualifications of the county school superintendent, and in part provides:

"* * *, and shall at the time of his election hold a diploma from one of the state teachers colleges or state university, or shall hold a state certificate, authorizing him to teach in the public schools of Missouri, or shall hold a first grade county certificate authorizing him to teach in the county of which he is superintendent; "
 * * * * *

In State ex inf. Chinn, ex rel. Botts v. Hollowell, 233 S. W. 405, the Supreme Court had for consideration the meaning of the words "state certificate" as used in the above statute. The opinion of the court says this:

"This action was instituted on the 16th day of May, 1920, on the information of James H. Chinn, prosecuting attorney of Schuyler county, at the relation of J. F. Botts, against appellant, to oust her from the office of county superintendent of public schools for said county.

* * * * *

"On the date of appellant's election she held a certificate of the board of regents of the state normal school of Kirksville, Mo., which was also signed by the state superintendent of public schools of Missouri, authorizing her to teach the branches therein named in the public schools of this state for a period of two years from its date.

"The cause was submitted to the trial court upon an agreed statement of fact, from which it appears that respondent's only insistence is that appellant did not possess the statutory qualifications to hold the office because the certificate held by her did not comply with either of the three alternative qualifications prescribed in Acts of 1911, p. 404, as follows:

" 'And shall at the time of his election hold a diploma from one of the state normal schools or teacher's college of the state university, or shall hold a state certificate, authorizing him to teach in the public schools of Missouri, or shall hold a first grade county certificate, authorizing him to teach in the county of which he is superintendent.'

"It is contended by respondent that said certificate, so issued to appellant by the board of regents of the state normal school, authenticated by the state superintendent of schools, is not a 'state certificate authorizing him to teach in the public schools of Missouri.' This contention presents the only question for decision."

And further,

"If, in the amendment of that section, the term 'state certificate' had been employed without any other or further qualifying or defining words, the legislative intent might be doubtful. But those words are immediately followed by 'authorizing him to teach in the public schools of Missouri,' which is in effect a legislative definition of the term 'state certificate.'"

And further,

"The certificate held by appellant emanated from the state by statutory authority (R. S. 11073), and authorized her to teach in the public schools of Missouri, and said certificate is therefore a state

Hon. James O. Stanley

-4-

May 23, 1934.

certificate, within the meaning of the
qualifying statute."

See also, State ex inf. Burgess v. Hodge , 320 Mo. 877.

Yours very truly,

James L. HornBostel
Assistant Attorney-General.

APPROVED;

ROY McKITTRICK
Attorney-General.

JLH:EG