

SCHOOLS:
TEACHERS:
RENEWAL OF CERTIFICATE:

Teachers' certificates maybe
renewed. When?

May 10, 1938

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Mr. G. C. Beckham,
Prosecuting Attorney
Crawford County,
Steelville, Missouri.

Dear Sir:

This is in reply to yours of May 7, 1938, requesting an official opinion from this department based on the following letter:

"I would like to ask your opinion upon the following: Here in Crawford County, there is a certain school teacher who was issued a second grade certificate in the spring of 1935. In the spring of 1937 she applied to the County Superintendent of Crawford County, for a renewal of this certificate. The County Superintendent at that time failed and refused to reissue said certificate on account of the fact that he did not approve of her moral character. She has now within the last few days made a further request upon the County Superintendent for a renewal of this certificate, and he still refuses to reissue the same. Section 9474 of the Revised Statutes of 1929 provides that the County Superintendent shall pass upon the moral character of the applicant, but my inquiry is this: Would this also apply in the case of the renewal of a certificate? Does

the County Superintendent have this same right to exercise his discretion upon a renewal application as he would upon an original application for a certificate?

I fail to find any case upon this identical point, and would appreciate having your opinion at the earliest convenient date, as this teacher is threatening to obtain a Writ of Mandamus against our County Superintendent."

Upon our research on this question, we find that the following sections of the statutes apply:

Section 9470, R.S. Mo. 1929 provides in part as follows:

"The county superintendent of public schools shall have authority to examine teachers and grant certificates of qualification to teach in their respective counties or in the state.
* * * * *
Certificates issued by said county superintendent of public schools shall be of three grades: Third grade shall be valid for one year and second grade for two years in the county for which they are issued and first grade for three years in the state."* * * * *

Section 9472, R.S. Mo. 1929 provides in part as follows:

"No person shall be granted a license to teach in the public schools of this state who is not of good moral character."* * * * *

Section 9473, R.S. Mo. 1929 provides in part as

follows:

"* * * A second or third grade certificate shall be renewed without examination once. A first grade certificate an unlimited number of times: Provided, that the holder shall give satisfactory evidence to county superintendent of public schools that certain professional work prescribed by state superintendent at the time of the issuing of or former renewal of the certificate has been complied with:"* * * * *

Section 9474, R.S. Mo. 1929 provides in part as follows:

"The county superintendent of public schools shall pass upon the moral character and requirements, other than scholastic as shown by the papers written, of all applicants for certificates to teach in the schools under his jurisdiction, and he shall grade each applicant who has had four months' experience in teaching on teaching ability and management."* * * * *

Section 9475, R.S. Mo. 1929 provides in part as follows:

"* * * * * Every applicant for a renewal of his certificate shall pay a fee of one dollar and fifty cents."* * * * *

Section 9476, R.S. Mo. 1929 provides as follows:

"The county superintendent may revoke, upon satisfactory proof, any county certificate for incompetency, immorality, neglect of duty, or the annulling of written contracts with the board

of directors without the consent of the majority of the members of the board which is a party to such contract. All charges must be preferred in writing, signed and sworn to by the party or parties making the accusation, which must be filed with the county superintendent, and the teacher must be given due notice, of not less than ten days, an opportunity to be heard, together with witnesses. In case any person holding a certificate issued by the state superintendent, the board of curators of the state university, or the board of regents of any state teachers college, shall be complained of as herein provided for, then it shall be the duty of the county superintendent in the county where the offense is alleged to have been committed, to notify, in writing, the person or board issuing such certificate, and such person or board shall proceed as herein provided for the revocation of such certificate. The complaint must plainly and fully specify what incompetency, immorality, neglect of duty or other charge is made against the teacher, and if the county superintendent shall, after a hearing, revoke said certificate, the teacher shall have the right to appeal said hearing to the circuit court at any time within ten days thereafter by filing an affidavit and giving bond as is now required before justices of the peace. On any such appeal the judge of the circuit court shall, with or without a jury, at the option of either the teacher or the person making the complaint, hear the whole matter anew and decide the same de novo affirming or denying the action of the county superintendent, and he shall tax the cost against the appellant if the

judgment of the county superintendent is affirmed, but if he disaffirms such judgment, then he shall assess the costs of the whole proceedings against the person or persons making the complaint. Any teacher having his or her certificate revoked by any other authority than that of county superintendent shall have the right to appeal therefrom to the circuit court and shall have the right to a like hearing and trial as is herein provided for in the appeal from the decision of the county superintendent."

The office of the county superintendent of schools is created by the statutes and the powers and duties of this office are confined to such statutes.

From the foregoing sections of the statutes, it is very evident that the lawmakers intended that a person to whom a certificate to teach school is issued must be of good moral character together with the other qualifications prescribed therein.

By virtue of the provisions of said Section 9473, the person who asks for a renewal of a second grade certificate is not required to take an examination, however, he or she must offer satisfactory evidence that they have done certain professional work as prescribed by the state superintendent of schools at the time of the issuance of their certificate. This section also states that the second grade certificate shall be renewed once and nothing is said in this section as to the moral character of the applicant for renewal. Such applicant must pay a renewal fee of one dollar and fifty cents (\$1.50) as prescribed in Section 9475, supra. These seem to be the only requirements for the renewal of a certificate that are imposed by the statutes. Volume 56 Corpus Juris, page 376, section 262 provides as follows:

"Where the statute so provides, a teacher's certificate or license may

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be renewed or extended provided it
is done in the manner prescribed."

* * * * *

In your request it appears that the county superintendent has refused to renew the certificate on account of the immorality of the teacher. By refusing to renew the certificate, the county superintendent is in effect revoking the certificate.

From a reading of the foregoing statute, it would seem that the proper way to prohibit the person from teaching on account of immorality or any other charge that might be preferred against them would be to follow the provisions of Section 9476, supra, which provides for the revocation of certificates and for the appeal from such revocation orders. By this section the teacher is given an opportunity to face his or her accusers and is given an opportunity to be heard. This section also provides for an appeal from the order of the county superintendent and if the teacher chooses, he or she may have a trial by jury. This procedure is in keeping with our form of government. Said Section 9476 provides that the teacher must be given notice and must be given an opportunity to be heard to produce his or her witnesses. From a close examination of this section of the statute, we think this is the procedure that the lawmakers intended should be taken for taking a certificate from a teacher, and we do not think that they intended that the certificate should be taken by the county superintendent refusing to renew a certificate which the lawmakers, by Section 9473, supra, said should be renewed under certain conditions therein set out.

Volume 56 Corpus Juris, page 375, section 279, states as follows:

"The board or officers authorized to revoke a teacher's license must comply with the provisions of the statute requiring that written specific charges be made against the teacher, and that the prescribed notice of such charges be given to him." * * * * *

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Depriving the teacher of a certificate to teach is a severe punishment, and statutes authorizing such act should receive a strict construction and nothing should be taken by implication. The statute relating to renewal of certificates does not give to the county superintendent any authority to refuse such renewal. His duties are mandatory, and if he thinks the teacher should not have a certificate on account of immorality or any other statutory charge, the superintendent's remedy is by an action to revoke the certificate. In such action the teacher can be notified, given an opportunity to produce witnesses and to be heard in an orderly manner as prescribed by the statute and as stated above, the teacher has the right finally to a trial by jury if he or she chooses.

CONCLUSION

This office is, therefore, of the opinion that the person who has a two-year certificate to teach school in a county is entitled to have such certificate renewed for two years provided he or she gives satisfactory evidence to the county superintendent of schools in such county that they have performed certain professional work prescribed by the state superintendent at the time of the issuing of the certificate, and provided that he or she pays the renewal fee as prescribed by the statute.

We are further of the opinion that the only way in which the certificate may be revoked is by giving the notice and hearing as is prescribed by said Section 9476, supra.

Respectfully submitted

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APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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