

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

December 14, 1951

Ermo H. Scott, Deputy Commissioner of Education

Re: Probationary Periods; Contract Forms and Notice of Termination

We have your memo of November 30, 1951, in which you request that our opinion of recent date with respect to probationary periods of teachers be expanded. You ask:

"To what extent, if any, may teaching service accumulated in one municipality be transferred to a second municipality by which the teacher is employed in fulfilling the probationary period of service in the second municipality, as defined by the Act?"

In answer to this question, with our understanding of the purpose of the probationary period — to permit the employer to observe a particular teacher during the period to determine whether or not her services will be satisfactory—we feel that a part of a probationary period served in one municipality will not serve as part of the probationary period required by another municipality. The requirements of one municipality may not be at all similar to the requirements of another municipality with respect to the ability of a teacher. For instance, a teacher, serving in Eastport, before the fulfillment of her probationary period removes to Portland. It is difficult to assume that her superintendent of schools in Portland will be satisfied that the requirements of such a small place are the same as those of his city. For that reason we do not believe that portions of probationary periods served in different towns can be added to fill the probationary period of the last town by which the teacher is employed.

Your second question is: "What adaptations and changes would you suggest making on the two forms of contracts as submitted with Commissioner Ladd's memorandum, in order that the State Department of Education may prepare a suggested basic form for the use of local school boards in contracting the services of teachers that will be more in keeping with the provisions of the statutory changes as represented by Chapter 203, Public Laws 1951?"

This office has no suggestions or recommendations to make with respect to the suggested form of contract other than with respect to termination of services as contained in Exhibit B. We must assume that that provision of Chapter 203, P. L. 1951, which provides that the contract of a duly certified teacher will be automatically extended for a year unless she receives notice to the contrary six months before the terminal date of her contract, has some effect. Therefore it is difficult to believe that a teacher's contract can be terminated within the six-month period without good cause; that is, with mutual consent, by a mere 30-day or six-weeks notice. For that reason we believe that, legally, giving notice on May 1st preceding the close of the school year, which is in effect approximately six weeks' notice, is without much effect in the face of the six-month provision in Chapter 203. Perhaps a provision that the contract will be terminated under statutory provisions or sooner with mutual consent would be more appropriate.

This discussion of contracts is pertinent to contracts given to duly certified teachers and not to teachers serving under probationary contracts.

JAMES G. FROST
Assistant Attorney General