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January 17, 1975

Carroll R. McGary, Commissioner

Educational & Cultural Services

Harrison B. Wetherill, Jr., Asst.

Attorney General

Tenure Rights of School Principals

You have asked several questions regarding the tenure rights of school principals. Your first question is whether the term "teacher" as used in 20 M.R.S.A. § 161 sub-§5 includes a principal. The answer to this question is yes. This answer is in conformity with an opinion issued by Assistant Attorney General Richard Foley on June 15, 1961 to Asa Gordon, then coordinator of the Maine School District Commission. I have attached this earlier opinion for your information.

Your second question is whether principals have continuing contract rights as spelled out in subsection 5. The answer to this question is also yes.

Subsection 5 reads in part as follows: "A superintendent ... may employ teachers... for such terms as he may deem proper, ... except that after a probationary period of not to exceed 3 years subsequent contracts of duly certified teachers shall be for not less than 2 years and unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract the contract shall be extended automatically for one year and similarly in subsequent years until age 65....."

Since, as stated above, a principal is included within the term "teacher" as that term is used in subsection 5, the above quoted provision in subsection 5 concerning continuing contract rights applies to principals as well as to teachers.

Your third question is whether continuing contract rights are earned for a particular position or whether they are earned for service in a particular school system regardless of the position. The answer to this question is that once an individual has served the necessary probationary period in a particular school system as either teacher or principal, such an individual acquires continuing contract rights on subsequent contracts even if such contracts involve a change of position.

The attached 1961 Attorney General's Opinion concerned the status of an individual who had been employed as a teacher and assistant principal for 20 years. The local school committee wanted to change the individual's position to that of principal and to put him on a probationary contract. The attached opinion states that since the individual had served some 20 years in the school system, he should be considered as having served his 3 year probationary period and to be now on a 2 year continuing contract until given a 6 months written notice, despite the fact that he was being moved to a new position within the system.

Your fourth and fifth questions deal with the status of a person on continuing contract who moves to another position in the system. The answer to both of these questions follows from the answer to the third question above and is that a person on continuing contract when moved to a new position within the same school system, has continuing contract rights in his new position without a probationary period. Continuing contract rights, once earned for service in a particular school system are transferred as an individual moves from position to position within that school system.

I hope that I have answered your questions and if I can be of any further assistance in this area please let me know.

HBW/mf

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