

# MAINE STATE LEGISLATURE

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JAMES E. TIERNEY  
ATTORNEY GENERAL



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE HOUSE STATION 6  
AUGUSTA, MAINE 04333

July 29, 1982

Honorable Joseph E. Brennan  
Governor of Maine  
State House Station #1  
Augusta, Maine 04333

Dear Governor Brennan:

You have requested an opinion from this office on the question of the expiration date of Mary Adams' term on the State Board of Education. For the reasons which follow, we conclude that Mrs. Adams' term expires on August 1, 1982.

20 M.R.S.A. § 51, as enacted by P.L. 1971, c. 610, § 4 (effective July 1, 1972) establishes the terms of the members of the State Board of Education. This statute establishes a nine-member board with staggered terms: one-third to be originally appointed for one year, one-third for two years, and one-third for five years, with all terms thereafter to be five years in duration. The statute also provides that

Any vacancy created shall be filled for the remainder of the unexpired term.

As we understand it, Mrs. Adams was appointed to the Board and sworn in on June 14, 1978. She succeeded John Ezhaya, who had been appointed on August 2, 1972 to a five-year term.<sup>1/</sup> The question presented by this request is whether Mrs. Adams, who

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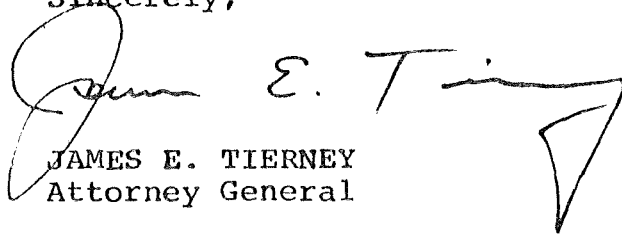
<sup>1/</sup> It is unclear from the Secretary of State's records whether Mr. Ezhaya resigned his position sometime before Mrs. Adams' appointment. Whether or not he resigned before Mrs. Adams' appointment, however, is irrelevant to the resolution of this question.

was appointed to succeed Mr. Ezhaya sometime after the expiration of his term, is entitled to serve a five-year term from the time of her appointment or from the expiration of Mr. Ezhaya's term.

A series of opinions issued by this office on the question of the length of terms on public boards establishes beyond question that where, as here, the Legislature has demonstrated an intent to establish staggered terms on a board, it is necessary, in order to carry out this intent, to view the term as attaching to the office and not to the individual board member. See, e.g., Opinion of the Attorney General, 79-82, at 5-6 & n. 8 (a copy of which is attached for your information). Thus, in this situation, where the five-year term of Mr. Ezhaya expired on August 1, 1977, the term of his successor would begin on the day after that expiration, notwithstanding that Mr. Ezhaya may have served as a holdover member and that Mrs. Adams was not appointed until June 14, 1978. See Opinion of the Attorney General, supra, at 10, and authorities cited therein; Opinion of the Attorney General, September 7, 1977 (copy of which is attached for your information). This result is required in order to maintain the staggered nature of the terms intended by the Legislature. Since Mrs. Adams' term dates back to August 2, 1977, and since that term is five years in duration, it follows that it will expire August 1, 1982.

If you have any further questions or problems, please do not hesitate to contact this office.

Sincerely,



JAMES E. TIERNEY  
Attorney General

PFM/ec

cc: Mary Adams  
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