

TEACHERS:
TEACHERS' CERTIFICATES:

County superintendents may issue third grade certificates only on the basis of examination of applicants whose examinations are graded by the county superintendents. Issuance of certificates to teach on the basis of grades is confined to the State Board of Education.

April 15, 1959



Honorable G. C. Beckham
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Dear Sir:

This is in reply to your letter of March 17, 1959, that we submit an opinion to your question concerning third grade teaching certificates, which question reads as follows:

"Can a County Superintendent of Schools, in the issuance of a third grade county certificate, use grades which the applicant has made in one of the state educational institutions and in such other schools as may be approved by the state board of education, as referred to in Section 168.100, in lieu of actual grades made by the applicant in a regular or special examination conducted by the County Superintendent for a third grade county certificate?"

To enable a teacher to teach in public-supported schools, Section 168.010, RSMo, requires that a teacher must receive a valid certification of qualification entitling him to teach. The failure to procure such a certificate before assuming a position as a teacher is a misdemeanor, which is applicable either to a teacher failing to receive such a certificate or to directors who employ teachers who do not have the requisite certificate. See, in this regard, Section 168.020, RSMo.

Section 168.030, RSMo, vests issuance of teaching certificates in the State Board of Education. This section reads as follows:

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"The state board of education shall have sole authority to grant certificates of license to teach in the public schools of the state, except that graduates of Missouri state colleges, state teachers' colleges, the University of Missouri, and Lincoln University, upon receiving the degree of bachelor of science in education shall be awarded, by the college or university, a life teaching certificate which shall bear the signature of the commissioner of education and shall be registered in the state department of education, also except that county superintendents of schools will have the authority to grant third grade county certificates."

There are two exceptions to issuance of certificates by the State Board of Education: One, that graduates of state schools in the training of teachers upon graduation and registration of their degrees with the State Board of Education confirming such graduation, a life teaching certificate is awarded, and, secondly, it exempts a right to county superintendents to issue third grade certificates.

The next applicable enactment providing for issuance of teachers' certificates is Section 168.040, RSMo, which reads as follows:

"1. For the purpose of granting teachers' certificates upon the basis of examination, two public examinations of two days each shall be held during each year on the second Fridays and the succeeding Saturdays in March and July at such place or places in the county as the county superintendent of public schools may designate. Said examinations shall be conducted by said county superintendent of public schools or by someone duly authorized by him to conduct them. All questions given in said examinations shall be prepared and furnished by the state department of education which shall also determine the rules and regulations under which the examinations are given, except those questions given for a special third

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grade certificate which can be prepared by either the state department of education or the county superintendent of schools.

"2. Within three days after the close of each regular examination, the county superintendent of public schools shall forward all papers of applicants to the state department of education by express or registered mail, except the papers given to those applicants applying for third grade certificates, and requesting that they be graded by the county superintendent. Said state department of education shall grade carefully all such papers received, keep a record of said grades and preserve all examination papers for at least one year.

"3. Certificates issued by the state department of education shall be of three grades; third grade certificates shall be valid for one year, second grade for two years and first grade for three years. Certificates shall be granted to applicants who are of good moral character and shall pass satisfactory examinations upon the subjects prescribed by the state board of education. Special examinations may be authorized by the commissioner of education upon request of the county superintendent of schools." (Emphasis ours.)

By the terms of Section 168.040, supra, third grade teaching certificates are to be valid one year. Likewise, by that section issuance of third grade certificates is provided for on the basis of examination, but vests in the county superintendent the power to either use his own questions in such examination or to use those prepared by the State Department, and to either grade these papers himself or let the State Department of Education grade them.

Note also that the portion which we have underscored in paragraph 2 of Section 168.040, supra, indicates that the county superintendent grades only a limited class of examination papers, those of third grade certificate applicants who

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have requested that he grade their papers. The remaining examination papers are forwarded to and graded by the State Board of Education.

Provision for issuance of certificates on the basis of approved grades is Section 168.100, RSMo, which reads as follows:

"Grades made in the state educational institutions, and in such other schools as may be approved by the state board of education, and obtained under conditions conforming to the requirements prescribed by the state board of education, may be accepted in lieu of examinations on certain subjects required for certificates issued upon the basis of examinations, provided that such grades are properly certified by the educational institution to the state department of education. Grades made under the provisions of sections 168.030 to 168.110 shall become void if the holder thereof shall have ceased to be engaged in active educational work as a teacher, a student in school, a supervisor or administrator in school work for a period of two consecutive years."

As an alternative to issuing certificates on the basis of examination, Section 168.100, supra, provides that examination for certificates may be waived where the applicant has received satisfactory grades in the subjects of the examination as certified by approved schools to the Department of Education. This provision lists only one limitation on the acceptance of appropriately certified grades in lieu of examination, and that is that the applicant for certification must not have ceased to have been in school or pursuing his vocation in the educational field for a period of two years prior to the issuance of the certificate. This section contains no limitation that the applicant must have passed an examination, but provides a substitute for examination.

However, since the language of this section is directed to requirements prescribed by the State Board of Education and is then permissive in its nature, while remaining silent as to county superintendents, it therefore does not appear

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that this section applies to county superintendents. This premise is further strengthened by the fact that Section 168.040, RSMo, the second of the two statutes excepting the right to issue third grade certificates to county superintendents, provides for issuance of certificates on the basis of examination, thus indicating a legislative intent to confine the county superintendent's control of third grade certificates to issuance on the basis of examination, and then in the one limited instance where the applicant requests that he grade the examination.

The only other requirement as to issuance of third grade certificates by county superintendents is the requirement imposed by Section 168.050, RSMo, that the applicant must be of good moral character and a high school graduate.

CONCLUSION

Therefore, it is the opinion of this office that the right to issue third grade certificates by county superintendents is limited to examinations which the county superintendent has graded. Only the State Department of Education is authorized to accept grades in lieu of examination.

Yours very truly,

JOHN M. DALTON
Attorney General

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