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EDUCATION—TEACHER CERTIFICATION, §§ 3301.071, 3319.22 TO 3319.31 RC—STATE BOARD OF EDUCATION—MUST PROVIDE FOR CERTIFICATION OF TEACHERS AND ADMINISTRATORS IN NON-TAX SUPPORTED SCHOOLS—§ 3319.31 RC IS NOT LIMITED IN ITS GRANT OF AUTHORITY BY § 3301.071 RC.

SYLLABUS:

1. Under the provisions of Section 3301.071, Revised Code, the standards for certification of teachers formulated and prescribed by the state board of education must provide for certification of any administrator, supervisor or teacher in non-tax supported schools in the grades and types established by Sections 3319.22 to 3319.71, inclusive, Revised Code, who has attained a bachelor's degree or equivalent as therein described, without further educational requirements of any kind whatever including higher degrees, bachelor's degrees of a specific kind, or academic training in the subjects to be taught.

2. Under the provisions of Section 3301.071, Revised Code, an administrator, supervisor or teacher in a non-tax supported school who has not attained a bachelor's degree or equivalent as therein described, is subject to standards for teacher certification of the state board of education as the same are formulated and prescribed under authority of Section 3301.07, Revised Code.

3. Nothing contained in Section 3301.071, Revised Code, limits or restricts the authority of the state board of education to revoke the certificate of a holder thereof for the causes and under the procedure set forth in Section 3319.31, Revised Code.

Columbus, Ohio, November 6, 1957

Hon. E. E. Holt, Superintendent of Public Instruction
Department of Education, Columbus, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

“The State Board of Education, at its meeting on June 10, 1957, directed me to request your opinion as to the application of H. B. No. 903, enacted by the 102nd General Assembly, to the following questions:

1) Can a teacher in a non-tax supported school, certificated solely by reason of said law, be subjected to revocation of his certificate for acts of an immoral, criminal or unprofessional nature?

2) Must a college graduate of the type described in said law be issued a blanket certificate to teach in non-tax supported schools, regardless of training in the subjects to be taught, or may such certificate be limited to such subjects as those in which such teacher has received substantial academic training?

3) Are teachers in non-tax supported schools whose qualifications do not conform to the provisions of said law still subject to the certification standards fixed by the State Board of Education?

4) Is there any time limitations upon certificates issued under the provisions of said law, or do such certificates continue indefinitely?

In order to answer your inquiry it is desirable to consider the provisions of House Bill 212 enacted into law by the 101st General Assembly in 1955, as Section 3301.07, Revised Code. As it applies to the present discussion, the statute reads as follows:

“The state board of education shall exercise under the acts of the legislature general supervision of the system of public education in the state of Ohio. *In addition to the powers otherwise imposed on the state board* under the provisions of law, such board shall have the following powers:

“D. *It shall formulate and prescribe minimum standards to be applied to all elementary and high schools in this state for the purpose of requiring a general education of high quality. Such standards shall provide adequately for: a curriculum sufficient to meet the needs of pupils in every community; the certification of teachers, administrators and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; buildings, grounds, health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary.*

“In the formulation and administration of *such standards for non-tax-supported schools the board shall also consider the particular needs, methods and objectives of said schools, provided they do not conflict with the provision of a general education of a high quality* and provided that regular procedures shall be fol-

lowed for promotion from grade to grade of pupils who have met the educational requirements prescribed. * * *’

(Emphasis added.)

Under this section the state board of education is charged by the legislature with responsibility for supervising public education in Ohio and *in addition* is charged further with formulating and prescribing minimum standards for *teacher certification* for all elementary and high schools in the state. It becomes at once apparent that non-tax supported schools were placed under the supervision of the state board, in some respects, including the establishment of standards for the certification of teachers. At the same time, and as a part of the same act, Section 3319.22, Revised Code, whereby the legislature prescribed the grades and general types of certification governing teachers in all schools, was amended. Thereafter, within the framework of the legislative action the state board has undertaken adoption of standards with respect to teacher certification on a state wide basis.

Interestingly enough, the legislature in its enactment of Section 3301.07, Revised Code, appears to have recognized that non-tax supported schools, although having objectives basically identical with those of the public schools, nevertheless often give varying emphasis to particular subjects and methods of teaching, and hence should be given somewhat separate consideration, and thus directed the state board of education to formulate standards with a view to the “particular needs, methods and objectives” of non-tax supported schools.

As you point out in your request for my opinion, the legislature took further action relating to non-tax supported schools during the recent session of the 102nd General Assembly. House Bill 903 was enacted and became effective September 14, 1957, as Section 3301.071, Revised Code as follows:

“In the case of non-tax supported schools, standards for teacher certification prescribed under section 3301.071 of the Revised Code shall provide for certification, without further educational requirements, of any administrator, supervisor or teacher who has attended and received a bachelor’s degree from a college or university accredited by a national or regional association in the United States, or who, at the discretion of the state board of education, has an equivalent degree from a foreign college or university of comparable standing.”

Parenthetically, and without amplification, I think it goes without saying that the reference in Section 3301.071, *supra* to "Section 3301.071" is obviously in error and that the legislature intended reference to Section 3301.07, Revised Code.

In furtherance of the present discussion, it is important to note that the new section was placed by the legislature immediately following its earlier enactment. Section 3301.07, Revised Code, deals with certification of teachers in all schools and authorizes the state board to formulate and prescribe standards therefor, admonishing the board to consider the special circumstances of non-tax supported schools. This left with the state board of education broad powers of discretion but a clear suggestion to distinguish non-tax supported schools from public schools. One is almost compelled to the conclusion that the 102nd General Assembly, two years after its passage of Section 3301.07, Revised Code, felt constrained to re-emphasize and underline in clear and positive language that the state board of education consider non-tax supported schools with a special view to their "needs, methods and objectives."

The language of Section 3301.071, Revised Code, is open to no interpretation other than that with reference to non-tax supported schools, the standards of the state board of education shall provide for certification of teachers with no other educational requirements than a bachelor's degree from an accredited college or university or equivalent thereof.

Where a teacher in a non-tax supported school does not meet the educational requirement of such a bachelor's degree, then the standards of the state board of education under the broad authority of Section 3301.07, Revised Code, apply. But as to the teacher *with* such a bachelor's degree the legislature could not have been more direct, positive or unequivocal. The standards may establish for him no further requirements as to academic training. Specifically, he may not be required (1) to have attained an educational degree higher than a bachelor's degree, (2) to have received a particular kind of bachelor's degree, (3) to have necessarily taken academic training in the subjects to be taught.

The foregoing discussion regarding teachers, applies with equal force to administrators and supervisors and would appear to dispose of the second and third questions of your inquiry. With regard to your fourth question, I find nothing contained in Section 3301.071, Revised Code, which can be construed as a repeal, in the case of non-tax supported schools,

of Sections 3319.22 to 3319.31, inclusive, Revised Code, insofar as these sections establish grades and types of certificates. It therefore remains within the power and authority of the state board to issue and to refuse to issue provisional, professional or permanent certificates to teachers in non-tax supported schools of the various types described in Section 3319.22, Revised Code. However, in the exercise of its authority, granting a grade or type of certificate, the state board may not now prescribe or consider further educational requirements as requisites for the issuance of such various grades and types of certificates, recognizing always that this applies in the case of the teacher in a non-tax supported school who *shall* have attained a bachelor's degree as set forth in Section 3301.071, Revised Code. In effect, what I have said is that the state board in the case of such a teacher may not refuse a request for a provisional, professional or permanent certificate on the grounds of its own standards relating to further educational requirements. With the foregoing discussion in mind and turning now to your first question, I call attention to Section 3319.31, Revised Code, reading as follows:

“If at any time the holder of a certificate is found intemperate, immoral, incompetent, negligent, or guilty of other conduct unbecoming to his position, the superintendent of public instruction shall revoke the certificate. Such evidence must be presented in writing, of which the accused shall be notified, and no certificate shall be revoked without a personal hearing in accordance with sections 119.01 to 119.13, inclusive, of the Revised Code.”

There can be no doubt as to the authority of the board to revoke a teacher's certificate in a non-tax supported school for the reasons and in the manner set forth in this statute.

Accordingly, it is my opinion that:

(1) Under the provisions of Section 3301.071, Revised Code, the standards for certification of teachers formulated and prescribed by the state board of education must provide for certification of any administrator, supervisor or teacher in non-tax supported schools in the grades and types established by Sections 3319.22 to 3319.31, inclusive, Revised Code, who has attained a bachelor's degree or equivalent as therein described, without further educational requirements of any kind whatever including higher degrees, bachelor's degrees of a specific kind, or academic training in the subjects to be taught.

(2) Under the provisions of Section 3301.071, Revised Code, an administrator, supervisor or teacher in a non-tax supported school who has not attained a bachelor's degree or equivalent as therein described, is subject to standards for teacher certification of the state board of education as the same are formulated and prescribed under authority of Section 3301.07, Revised Code.

(3) Nothing contained in Section 3301.071, Revised Code, limits or restricts the authority of the state board of education to revoke the certificate of a holder thereof for the causes and under the procedure set forth in Section 3319.31, Revised Code.

Respectfully,
WILLIAM SAXBE
Attorney General