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SCHOOLS—STATE BOARD OF SCHOOL EXAMINERS HAS POWER TO REVOKE CERTIFICATE ISSUED BY THEM—PROCEDURE PROVIDED IN SECTION 7827 G. C. MAY BE FOLLOWED.

COLUMBUS, OHIO, July 27, 1923.

*State Board of School Examiners, Ohio Bldg., Columbus, Ohio.*

**SYLLABUS:**

*Under the provisions of section 7808, General Code, the State Board of School Examiners has power to revoke for "good cause" a certificate issued by them, the board itself upon investigation of the facts and hearing of evidence to determine if such "good cause" exists. No procedure being specifically provided in said section, it is believed the procedure provided in section 7827 G. C. may be safely followed.*

GENTLEMEN:—Yours of recent date received, in which you submit the following inquiry:

"An affidavit, a copy of which is attached to this letter, charging Superintendent of Schools of C., Ohio, O. B. C., of filing false high school credentials for F. D. M. with the Supreme Court of Ohio, has been filed with the State Board of School Examiners. The petitioner, E. W. C., of C., Ohio, asks the revocation of the life certificate issued to O. B. C. some time prior to 1914.

"With this explanatory statement and a copy of the affidavit, the Ohio State Board of School Examiners asks for a written opinion regarding the authority and power invested in the State Board of School Examiners by the present laws of the State for the revocation of a certificate on the charges filed by Mr. E. W. C. against Superintendent O. B. C."

The affidavit referred to reads as follows:

"In the matter of the revocation of a life certificate heretofore issued to O. B. C.

To the State Board of School Examiners of the State of Ohio:

Now comes your petitioner and complains to your Honorable Board of and in respect to this, namely.

One O. B. C. on or about \_\_\_\_\_, 1920, as Superintendent of the C., Ohio, City Schools, sent to the Supreme Court of the State of Ohio, false high school credentials for F. D. M., of C., Ohio, which false credentials stated that F. D. M. was a graduate of the C. High School. All of which credentials were false and known to the said O. B. C. to be false at the date and time he sent them to the Supreme Court of Ohio, as aforesaid.

Wherefore your petitioner asks that the complaint herein made be assigned for hearing before your Honorable Board and that a finding be made as to whether the life certificate now held by the said O. B. C. should be revoked for cause.

(Signed) E. W. C.  
Petitioner.

The State of Ohio,  
C. County, SS.

E. W. C. being duly sworn says that the allegations of fact contained in his aforesaid petition are true as he verily believes.

(Signed) E. W. C.

Sworn to before me and subscribed in my presence this 19th day of June, 1923.

(Signed) R. B. McDermott  
Notary Public.

Attention is directed to section 7808, General Code of Ohio, which, reads as follows:

"All certificates issued by such board shall be countersigned by the superintendent of public instruction. They shall supersede the necessity of any and all other examinations of the persons holding them, by any board of examiners, and be valid in any school district in the state, unless revoked by the state board for good cause."

The last clause of the above section, "*unless revoked by the state board for good cause*", is the only reference to revocation of state certificates found anywhere in the statute law of Ohio. However, it is believed the language here used, coupled with the fundamental principle that in order to protect the teaching profession in the state against any unscrupulous persons, the power of revocation would necessarily need to exist, would lead to the conclusion that such power is vested in the State Board of School Examiners.

It is further believed that the above quoted section gives such board large discretion and power in determining what constitutes "good cause". No procedure is laid down. The statutes nowhere provide for the filing of charges. Notice to the accused is not provided for. The hearing of charges when filed is nowhere mentioned in the sections governing such board of examiners. However, section 7827 General Code, a part of the same chapter, provides as to county boards of education as follows:

"No certificate shall be issued to any person who is less than eighteen years of age. If at any time the recipient of a certificate be found intemperate, immoral, incompetent or negligent, the examiners, or any two of them, may revoke the certificate; but such revocation shall not prevent a teacher from receiving pay for services previously rendered. Before any hearing is had by a board of examiners on the question of the revocation of a teacher's certificate, the charges against the teacher must be reduced to writing and placed upon the records of the board. He shall be notified in writing as to the nature of the charges and the time set for the hearing, such notice to be served personally or at his residence: and be entitled to produce witnesses and defend himself. The examining board may send for witnesses and examine them on oath or affirmation which

may be administered by any member of the board touching the matter under investigation."

Having in mind the provisions of section 7827 General Code, and the last clause of section 7808, General Code, above quoted, it is believed that inasmuch as the State Board of Examiners are vested with power to revoke for "good cause", they are necessarily vested with power and authority to determine, upon filing of charges, notice to the accused and a proper hearing and investigation of the facts, whether or not such facts constitute "good cause" for revocation. In other words, the State Board of Examiners being vested with authority to revoke a certificate for "good cause", the board itself must be the judge of the facts and evidence in any given case.

Protection of the rights of the accused and adherence to the Anglo-Saxon principle of due process of law, fair play and orderly procedure, would seem to dictate, as a minimum requirement, such a procedure as above outlined, especially when the Legislature has failed to provide any procedure, as in the instant case.

Therefore, you are advised that the State Board of School Examiners has power to revoke for "good cause" a certificate issued by them, the board itself, upon investigation of the facts and hearing of evidence, to determine if such "good cause" exists. No procedure being specifically provided, it is believed that the procedure indicated in section 7827 G. C. may be safely followed.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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612.

JUSTICE OF THE PEACE—TERM OF OFFICE—SECTIONS 4831 AND  
3512 G. C. CONSTRUED.

COLUMBUS, OHIO, July 27, 1923.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

SYLLABUS:

*The term of a person appointed to fill a vacancy in the office of justice of the peace would be terminated as soon as a successor was elected and qualified, which could be on the first day of January following the November election in the odd year following his appointment.*

GENTLEMEN:—This will acknowledge receipt of your letter of July 20th, in which you ask the following questions:

"What is the term of a justice of the peace appointed to fill a vacancy where the regularly elected justice of the peace refused to qualify?

Does he serve only until the next election for justices of the peace or does he serve out the four year term of the justice who refused to qualify?"