

CHAPTER 130

TEACHERS

130.01 GENERAL CONTROL OF SCHOOLS.

HISTORY. R.L. 1905 s. 1336; G.S. 1913 s. 2795; G.S. 1923 s. 2871; M.S. 1927 s. 2871; 1941 c. 169 art. 10 s. 1.

The relator was legally elected as principal of the schools in the respondent school district and is entitled to have his contract signed and to receive his compensation thereunder. *State ex rel v Middleton*, 137 M 33, 162 NW 688.

As far as possible conflicting provisions of a city charter must be harmonized in conformity with the announced legislative policy of the state. *State ex rel v Erickson*, 190 M 216, 251 NW 519.

Under the Minneapolis charter, c. 19, s. 4, investing the city's civil service commission with power over the "entire service of the city," classified employees of the board of education are included, since the board is a branch of the city government. *Tanner v Civil Service Commission*, 211 M 450, 1 NW(2d) 602.

A teacher of a common school district who gives an entertainment to secure money to purchase a chair, a dictionary, or books for the school, need not turn the money so secured over to the school board, in the absence of a specific agreement. OAG Jan. 4, 1933.

130.02 CERTIFICATION OF TEACHERS; DEFINITION OF TEACHER.

HISTORY. 1929 c. 388 s. 1; M. Supp. s. 2900-1; 1941 c. 169 art. 10 s. 2.

Disregard of section 130.02 by the commissioner of education held grounds for his dismissal. *State ex rel v State Board*, 213 M 201, 6 NW(2d) 251.

A superintendent of schools is not a "teacher" within the terms of the teachers tenure act. *Eelkema v Board*, 215 M 593, 11 NW(2d) 76.

130.03 QUALIFIED TEACHER DEFINED.

HISTORY. 1929 c. 388 s. 2; M. Supp. s. 2900-2; 1941 c. 169 art. 10 s. 3.

The board of trustees has no power to contract with, or hire, a teacher who has not procured the requisite certificate of qualification, and a contract entered into before the procuring of such certificate is void. *Jenness v School District*, 12 M 448 (337). See *Ryan v School District*, 27 M 433, 8 NW 146. *School District v Thelander*, 31 M 333, 17 NW 866.

The question of a teachers "position" is res novo in Minnesota; but he may be appointed to a certain position, but available for another. "Position" is not allocated to any particular room, building, or division. The term is not synonymous with "qualifications to teach," but means rank, grade, or station in the school system as determined by the factors found in the tenure act. *State ex rel v Board*, 213 M 585, 7 NW(2d) 544.

130.04 STATE BOARD OF EDUCATION TO ISSUE CERTIFICATES.

HISTORY. 1929 c. 388 s. 3; M. Supp. s. 2900-3; 1941 c. 169 art. 10 s. 4.

Certificates should be issued in one's married name rather than in her maiden name. OAG Oct. 21, 1935 (172h).

Removal from public office; teachers tenure. 20 MLR 762.

130.05 CLASSIFICATION OF TEACHERS' CERTIFICATES.

HISTORY. 1929 c. 388 s. 4; 1937 c. 340 s. 1; M. Supp. s. 2900-4; 1941 c. 169 art. 10 s. 5.

Sections subsequent to section 130.05 classify each of the five general types of certificates into special, limited, standard, general, and advanced certificates, in each case specifying what grades and subjects each kind shall qualify the holder to teach. This is modified by the recitation in section 130.03. The "common and approved usage" of the word "position" must also be taken into consideration. *State ex rel v Board*, 213 M 583, 7 NW(2d) 544.

130.06 ELEMENTARY SCHOOL CERTIFICATES.

HISTORY. 1929 c. 388 s. 5; Ex. 1936 c. 26 s. 1; M. Supp. s. 2900-5; 1941 c. 169 art. 10 s. 6.

The commissioner of education is not authorized to issue a certificate to teach in Minnesota to any person trained in another state unless that person is the holder of a diploma or a degree evidencing a completion of at least a two-year course in elementary education. OAG July 29, 1931.

130.07 HIGH SCHOOL CERTIFICATES.

HISTORY. 1929 c. 388 s. 6; M. Supp. s. 2900-6; 1941 c. 169 art. 10 s. 7.

The holder of a high school special standard certificate, on the basis of a major in music, to which has been added a recognized minor in English, is qualified to teach English in high schools, but the department of education is not authorized to limit such teaching of English to less than half of school day. OAG April 11, 1939 (172B).

The state board has the right to issue special teacher's certificates to graduates of College of Education, University of Minnesota, whether majoring or minoring in such course. OAG June 21, 1939 (172B).

The state board has the right to issue special teacher's certificates to graduates of College of Education, University of Minnesota, whether majoring or minoring in such course. OAG June 21, 1939 (172B).

The state board may prescribe reasonable qualifications for recreation directors and instructors, and may require that they hold a teacher's certificate and such additional qualifications as the board may prescribe. OAG June 21, 1939 (172B).

A degree of a professional college such as college of law, college of medicine, college of engineering, or college of dentistry may not be accepted for high school standard general certificate. OAG May 26, 1933.

130.08 JUNIOR COLLEGE CERTIFICATES.

HISTORY. 1929 c. 388 s. 4; 1937 c. 340 s. 1; M. Supp. s. 2900-4; 1941 c. 169 art. 10 s. 8.

130.09 ADMINISTRATIVE AND SUPERVISORY CERTIFICATES.

HISTORY. 1929 c. 388 s. 7; M. Supp. s. 2900-7; 1941 c. 169 art. 10 s. 9.

The superintendent of schools is specifically included in provisions for certifications, but he is not covered by the tenure act *Eelkema v Board*, 215 M 594, 11 NW(2d) 76.

130.10 VOCATIONAL, RECREATIONAL, AND ADULT EDUCATION CERTIFICATES.

HISTORY. 1929 c. 388 s. 6; M. Supp. s. 2900-6; 1941 c. 169 art. 10 s. 10.

130.11 APPLICANTS TRAINED IN OTHER STATES.

HISTORY. 1929 c. 388 s. 8; M. Supp. s. 2900-8; 1941 c. 169 art. 10 s. 11.

130.12 DURATION AND RENEWAL OF CERTIFICATES.

HISTORY. 1929 c. 388 s. 9; M. Supp. s. 2900-9; 1941 c. 169 art. 10 s. 12.

130.13 FEES FOR TEACHERS' CERTIFICATES.

HISTORY. 1929 c. 388 s. 10; M. Supp. s. 2900-10; 1941 c. 169 art. 10 s. 13.

The department of education issuing special teachers' certificates to graduates of the University College of Education is required to make the customary charge for a certificate. OAG June 21, 1939 (172B).

130.14 SUSPENSION OR REVOCATION OF CERTIFICATES.

HISTORY. 1929 c. 388 s. 11; M. Supp. s. 2900-11; 1941 c. 169 art. 10 s. 14.

See, Removal from Public Office in Minnesota; teachers' tenure. 20 MLR 721, 762.

Tort liability of administrative officers. 21 MLR 280.

130.15 OUTSTANDING CERTIFICATES NOT IMPAIRED.

HISTORY. 1929 c. 388 s. 12; M. Supp. s. 2900-12; 1941 c. 169 art. 10 s. 15.

130.16 ADMINISTRATIVE REGULATIONS.

HISTORY. 1929 c. 388 s. 13; M. Supp. s. 2900-13; 1941 c. 169 art. 10 s. 16.

130.17 RECORDING OF CERTIFICATES; COUNTY AND CITY SUPERINTENDENT.

HISTORY. 1905 c. 137 s. 1; G.S. 1913 s. 2830; G.S. 1923 s. 2901; M.S. 1927 s. 2901; 1941 c. 169 art. 10 s. 17.

The teachers tenure act is based upon the public policy of protecting the interests of the state, not upon a policy of granting special privileges to teachers as a class or as individuals. The act should not be strictly construed as against a teacher but should be construed liberally to effect the general purpose of the act. *McSherry v City of St. Paul*, 202 M 109, 277 NW 541.

130.18 HIRING OF TEACHERS; CONTRACTS; TERMINATION.

HISTORY. 1861 c. 11 ss. 10, 15, 16; 1862 c. 1 ss. 10, 12; 1865 c. 13 s. 8; G.S. 1866 c. 36 ss. 10, 12, 61; 1873 c. 1 ss. 13, 15, 102; 1877 c. 74 subc. 2, ss. 5, 13; 1877 c. 74 subc. 7 s. 8; G.S. 1878 c. 36 ss. 23, 31, 101; 1879 c. 17 ss. 1, 2; G.S. 1894 ss. 3681, 3694, 3798; R.L. R.L. 1905 ss. 1319, 1344; G.S. 1913 ss. 2745, 2832; G.S. 1923 ss. 2814, 2903; 1927 c. 161; 1927 c. 388 s. 2; M.S. 1927 ss. 2814, 2903; 1937 c. 161 ss. 1, 2; M. Supp. ss. 2900-2, 2903, 2903½; 1941 c. 169 art. 10 s. 18.

A contract made between a teacher and the trustees of a school district must be in writing, and signed by such teacher and a majority of the trustees. *McGuiness v School District*, 39 M 499, 41 NW 103. See *Martin v School District*, 163 M 427, 204 NW 320.

A teacher's contract, in ordinary form, entered into with a school district, is a contract for personal services by the teacher and is an entire contract for the period covered. The physical inability of a teacher to commence her services at the beginning of the school year and for over five weeks thereafter is such failure of performance of a substantial and material part of the contract as to release the school district therefrom. *Hong v Ind. School District*, 181 M 309, 232 NW 329.

The board of trustees of a school district may, prior to the regular annual election held in July, employ a teacher for the ensuing year and bind the district not only for the period of five months required by law but during such further time as may be fixed or established by the electors at such meeting. *Norton v Wilkes*, 93 M 411, 101 NW 619.

A teacher may be legally employed by the school board at a special meeting thereof at which all members were present and took part, notwithstanding the fact that the notice of such meeting was irregular and would have been insufficient if all members of the board had not been present at the meeting. *Hlavka v School District*, 192 M 169, 255 NW 820.

The mandatory provisions of the statute requiring a specified written contract between a teacher and a school district in order to create a lawful employment does not apply to a teacher entitled to the benefit of the teachers tenure act. *Oxman v Ind. School District*, 178 M 422, 227 NW 351.

On oral contract made by a school teacher with the board of trustees of a school district to teach school is invalid, and no recovery can be had for services performed thereunder in an action upon quantum meruit. *Leland v School District*, 77 M 469, 80 NW 354.

A teacher's contract is not binding on the parties until formally signed by both the teacher and the authorized members of the school board, and the date of the contract is the date of the final execution, and not the date appearing on the contract. OAG June 1, 1937 (172c-2).

Teachers contracts in common school districts may be executed by the signatures of two trustees. OAG May 16, 1932.

Where two brothers serve on the same board of a common district, a teacher may be legally elected at a properly called meeting of the board attended by one of the brothers and a third member of the board. OAG June 8, 1934 (172c-2).

The length of term depends on the contract entered into by the teacher and the school board. OAG Nov. 26, 1934 (161b-14).

Teachers contracts cannot legally provide for a salary increase by mutual consent. OAG April 13, 1934 (172c-5).

A contract with a teacher may provide for the payment of salary in 12 monthly instalments instead of nine. OAG Nov. 6, 1936 (172c-5).

A teacher cannot waive her legal right to workmen's compensation in her contract of employment. OAG March 19, 1934.

A clause in a teacher's contract providing for the termination of the contract at any time upon 30 days' notice is invalid. OAG July 7, 1937 (172c-5).

Where a teacher was married but kept her marriage a secret, and two weeks later received a contract signed in her maiden name, the validity of the contract would depend upon the provisions of the contract. OAG March 10, 1937 (707b-10).

A substitute teacher must have a teacher's certificate and may not be a board member. OAG March 28, 1935 (161b-14).

Where three members of a school board vote for the election of a teacher and three against, the motion fails to carry. OAG Feb. 24, 1933.

The hiring of an unqualified teacher does not deprive the school of its public nature, but does deprive the school of its right to apportionment aid while such teacher is employed. OAG Oct. 6, 1937 (8b).

The board may authorize the examination of teachers and pupils where the teacher is afflicted with a communicable disease and pay the charges incurred therefor, but need not pay the expenses unless the examination was authorized at a meeting of the board. OAG Aug. 23, 1937 (159b-7).

Where the chairman of the board of a special or an independent school district refuses to sign teachers contracts, the members of the school board cannot authorize some other member to sign as chairman. The only remedy is mandamus. OAG May 16, 1932.

If the chairman of the school board refuses to perform his ministerial duty to sign contracts; teachers may bring mandamus and also recover any damages sustained. OAG July 29, 1933.

A husband is related by marriage to all blood relatives of his wife and in like manner a wife is related by marriage to all blood relatives of her husband, but the relations and the blood relations of the wife are not related to each other by marriage. OAG April 4, 1935 (172a).

One married to the daughter of a member of a school board may not be elected as a principal without the unanimous vote of the board. OAG April 9, 1931.

The cousin of the deceased wife of a member of a school board cannot be employed without the unanimous vote of the full board. OAG May 16, 1933.

A teacher whose uncle is a brother-in-law to the chairman of the board is not a relative within the fourth degree. OAG July 2, 1934 (172a).

130.19 TEACHERS

806

An applicant for a position as a teacher who is a first cousin of the deceased wife of a member of the school board may be employed without the unanimous consent of the full board where such member has remarried. OAG July 17, 1933.

Where a board member's first cousin is married to the applicant's sister, the board member is not related to the applicant. OAG July 2, 1934 (172a).

Where a board member's brother is married to a sister of the applicant's mother, the board member is not related to the applicant. OAG July 2, 1934 (172a).

A quorum being present, when part of the members present refuse to vote at all, a vote may be legally decided by a majority of those actually voting, though they do not constitute a majority of the whole number present. 1940 OAG 49, June 27, 1940 (161a-16b).

A teacher's contract is legal which provides that a certain specified amount per month be withheld as a guarantee the teacher will complete the school term. This clause is not a penalty but merely to secure the board against damage due to a non-completion of the contract. 1942 OAG 53, Dec. 21, 1942 (172C-2).

Maternity does not constitute cause for breach of a teacher's contract. 1942 OAG 54, Sept. 15, 1941 (172C-3).

Liability of a municipal corporation under an invalid contract. 20 MLR 565.
Teachers' tenure. 20 MLR 762, 768.

130.19 SUMMER SCHOOLS; TEACHERS' CONTRACTS.

HISTORY. 1935 c. 296; M. Supp. s. 2903-1; 1941 c. 169 art. 10 s. 19.

130.20 KEEPING OF REGISTERS.

HISTORY. 1861 c. 11 ss. 15, 16; 1862 c. 1 s. 12; 1864 c. 4 s. 1; G.S. 1866 c. 36 ss. 12, 33; 1873 c. 1 ss. 15, 84; 1876 c. 13 s. 1; 1877 c. 74 subc. 2 s. 13; 1877 c. 74 subc. 5 s. 1; G.S. 1878 c. 36 ss. 31, 75; 1879 c. 17 s. 2; 1883 c. 54 s. 1; 1887 c. 41 s. 1; G.S. 1894 ss. 3694, 3759; R.L. 1905 s. 1345; G.S. 1913 s. 2833; G.S. 1923 s. 2904; M.S. 1927 s. 2904; M.S. 1927 s. 2904; 1941 c. 169 art. 10 s. 20.

130.21 TEACHERS' REPORTS.

HISTORY. 1873 c. 1 s. 84; 1876 c. 13 s. 1; 1877 c. 74 subc. 5 s. 1; G.S. 1878 c. 36 s. 75; 1883 c. 54 s. 1; 1887 c. 41 s. 1; G.S. 1894 s. 3759; R.L. 1905 s. 1346; 1913 c. 198 s. 1; G.S. 1913 s. 2834; G.S. 1923 s. 2905; M.S. 1927 s. 2905; 1941 c. 169 art. 10 s. 21.

130.22 TEACHER TENURE ACT; CITIES OF THE FIRST CLASS; DEFINITIONS.

HISTORY. 1927 c. 36 ss. 1 to 3; M.S. 1927 ss. 2935-1, 2935-2, 2935-3; 1941 c. 169 art. 10 s. 22; 1943 c. 238 s. 1.

The mandatory provisions of section 130.18 required a specified written contract between a teacher and a school district in order to create a lawful employment does not apply to a teacher entitled to the benefit of the teacher tenure act. *Oxman v Ind. School District*, 178 M 422, 227 NW 351.

The teacher tenure act is based upon the public policy of protecting the educational interests of the state, not upon a policy of granting special privileges to teachers as a class or as individuals, and should not be strictly construed as against a teacher, but should be construed liberally to effect the general purpose of the act. *McSherry v City of St. Paul*, 202 M 102, 277 NW 541.

A salary schedule adopted by the board of education of Duluth prior to the enactment of the teacher tenure act does not determine the yearly salary to be paid its teachers after such act went into effect. The power of the board to contract for the yearly salary of teachers is limited to the funds it is authorized to provide for conducting the schools for the same period. Persons dealing with the board are charged with knowledge of the extent of its power to contract. *Sutton v Board of Education*, 197 M 125, 266 NW 447.

One orally employed and put to work in a teaching job which continued through the entire school year, without replacing any teacher, was a "teacher", though

designated as a substitute. *Hosford v Board of Education*, 201 M 1, 275 NW 81. See *Gausemel v City of St. Paul*, 207 M 555, 292 NW 202.

An oral hygienist, a graduate dental nurse, is not a teacher within the act. OAG March 10, 1933.

Teachers in evening schools or adult education department of city schools come within the terms of the tenure law. OAG July 20, 1939 (172).

The yearly salaries of permanent teachers in the public schools of the city of St. Paul for a calendar year may not be fixed in such amounts as to exceed the budget item appropriated therefor under the provisions of the city's charter, and no recovery can be had on the theory of quasi contract for services performed after the exhaustion of the appropriation. *Doyle v City of St. Paul*, 204 M 558, 284 NW 291. *Doyle v City of St. Paul*, 206 M 649, 289 NW 784.

The contract of a teacher whose tenure rights have matured is subject to the legislative power of amendment in respect to compensation. *Doyle v City of St. Paul*, 206 M 542, 289 NW 785.

Construction and application of the tenure law. *Ging v Board*, 213 M 584, 7 NW(2d) 544.

Comment and construction of the words defined. *Ging v Board*, 213 M 584, 7 NW(2d) 544.

The superintendent of schools employed by the board of education of the independent school district of Duluth is not within the protection of the teacher's tenure act. *Eelkema v Board*, 215 M 591, 11 NW(2d) 76.

The teacher tenure act does not deprive the school board in a city of the first class of the power to fix teachers salaries. OAG Sept. 6, 1933.

The board of education of Minneapolis does have legal authority to reduce salaries after teachers attain a certain age. 1938 OAG 226; Sept. 27, 1937 (172d).

The board of education of Minneapolis does not have legal authority to specify a compulsory retirement age for teachers. 1938 OAG 226; Sept. 27, 1937 (172d).

130.23 PROBATIONARY PERIOD; DISCHARGE OR DEMOTION.

HISTORY. 1927 c. 36 s. 4; M.S. 1927 s. 2935-4; 1941 c. 169 art. 10 s. 23.

A refusal by a teacher to sign a written contract terminates her membership in the Duluth teachers' retirement association. OAG Nov. 24, 1933.

Written contracts are not necessary with teachers who are reemployed after teaching a three year probationary period, but school boards may require such contracts. OAG June 2, 1933.

The tenure law applies to part time teachers who teach a substantial period of time and whose employment is substantially continuous and regular for a period of three years, including teachers in evening schools and adult education department. OAG July 20, 1939 (172).

130.24 PERIOD OF SERVICE AFTER PROBATIONARY PERIOD; DISCHARGE OR DEMOTION.

HISTORY. 1927 c. 36 s. 5; M.S. 1927 s. 2935-5; 1941 c. 169 art. 10 s. 24; 1943 c. 272 s. 1.

130.25 GROUNDS FOR DISCHARGE OR DEMOTION.

HISTORY. 1927 c. 36 s. 6; M.S. 1927 s. 2935-6; 1941 c. 169 art. 10 s. 25.

The finding of respondent (city commissioner of education) that relator was guilty of inefficiency in teaching and in management of her classes is sustained by the evidence. The complaint filed by the superintendent of schools of the city of St. Paul gave respondent jurisdiction to hear and determine the charges made. *State ex rel v Peterson*, 208 M 361, 294 NW 203.

Cases relating to discharge or demotion. *State ex rel v Board*, 213 M 563, 7 NW(2d) 544; *Eelkema v Board*, 215 M 592, 11 NW(2d) 76.

A teacher cannot be discharged for a leave of absence necessitated by maternity. OAG Sept. 4, 1934 (172d).

Old age alone is not a cause for discharge, and although there may be a reduction based on an age classification, such classification must be reasonable and not for the sole purpose of compelling a teacher to resign. OAG Sept. 27, 1937 (172d).

Where a class room teacher is promoted to the position of principal, tenure right as to promotion becomes effective immediately in the new position. OAG Dec. 24, 1935 (172).

Removal from public office; teacher's tenure act. 20 MLR 762, 765, 766.

130.26 HEARING OF CHARGES AGAINST TEACHER.

HISTORY. 1927 c. 36 s. 7; M.S. 1927 s. 2935-7; 1941 c. 169 art. 10 s. 26.

There can be no demotion of a teacher under the teacher tenure act without a hearing; but that does not prevent a teacher from asking for and accepting a demotion. *Hosford v Board of Education*, 203 M 138, 280 NW 859; *State ex rel v Board*, 213 M 563, 7 NW (2d) 544.

130.27 COUNSEL; EXAMINATION OF WITNESSES.

HISTORY. 1927 c. 36 s. 8; M.S. 1927 s. 2935-8; 1941 c. 169 art. 10 s. 27.

130.28 HEARINGS.

HISTORY. 1927 c. 36 s. 9; M.S. 1927 s. 2935-9; 1941 c. 169 art. 10 s. 28.

130.29 DECISIONS, WHEN RENDERED.

HISTORY. 1927 c. 36 s. 10; M.S. 1927 s. 2935-10; 1941 c. 169 art. 10 s. 29.

130.30 CHARGES EXPUNGED FROM RECORDS.

HISTORY. 1927 c. 36 s. 11; M.S. 1927 s. 2935-11; 1941 c. 169 art. 10 s. 30.

130.31 SUSPENSION PENDING HEARING; SALARY.

HISTORY. 1927 c. 36 s. 12; M.S. 1927 s. 2935-12; 1941 c. 169 art. 10 s. 31.

The charges against a teacher must be filed before such teacher can be suspended. OAG March 20, 1934.

130.32 SERVICES TERMINATED BY DISCONTINUANCE OR LACK OF PUPILS; PREFERENCE GIVEN.

HISTORY. 1927 c. 36 s. 13; M.S. 1927 s. 2935-13; 1941 c. 169 art. 10 s. 32; 1943 c. 541 s. 1.