

Certificates, Special, Limitation Of. Teachers' Certificates. Eligibility For Special Certificate. Amendment Section 1840 Pol. Code.

Section 1840 of the Political Code, is supplemented but not amended by sections 1911 and 1912 of the Political Code.

Citizens of the United States over the age of 18 years, possessing the requisite qualifications, may be granted special certificates named in section 1840.

Holders of such special certificate can teach only the branches named therein.

Helena, Mont., Jan. 11th, 1907.

Hon. W. E. Harmon,
Supt. Public Instruction,
Helena, Mont.

Dear Sir:—

We are in receipt of your letter of the 10th inst., in which you state certain proposition of law therefore submitted to you, and request opinion from this office thereon, to-wit:

"1. Is section 1840 of the Political Code repealed or amended by section 1911 and section 1912 of the Political Code?"

"2. Who is eligible to receive a special certificate such as is mentioned in said section 1840?"

"3. May the holder of such special certificate be employed to teach branches not named therein?"

1. Section 1840 of the Political Code, as amended by the laws of 1903, page 152, is not repealed or amended, but is, to some extent, supplemented by section 1911 of the Political Code as amended by laws of 1897, page 146, and by section 1912 of the Political Code as amended by the laws of 1905, page 167.

2. Any person who is a citizen of the United States, of the age of eighteen years and who possesses the requisite qualifications in any one of the special branches of study named in the proviso of said section 1840, may be granted such special certificate, and this irrespective of whether such person possesses the qualifications necessary to obtain any of the other certificates therein referred to. This is made apparent by the provisions of the Act of March 3rd, 1905, above referred to, which mentions both the general and special certificates, and if the person holds a general certificate there would be no necessity of his holding such special certificate.

3. Chapter 77, laws of 1905, amending section 1912 of the Political Code, provides that

"No person shall be employed or permitted to teach in any of the public schools of this state who is not the holder of a lawful certificate of qualification to teach. Any contract made in violation of this section shall be void."

Section 1911 of the Political Code, as amended by the laws of 1897, page 146, provides that

"No certificate shall be granted unless the applicant shall be found proficient in and qualified to teach the following branches of common English education."

Then follows a list of the branches in which the applicant must be examined. Under this law, no person can legally be employed as a teacher in the public schools unless he possesses the qualifications to give instruction in the branches named in the law, and this qualification must be evidenced by a certificate.

The mere fact that it is known that the person possesses such qualification is not sufficient. The certificate is the only proper evidence. The proviso in said section 1840, as amended, is, in effect, a special provision and is designed to enable the employment of an expert in the branches named in the proviso, but the applicant for such special certificate is not examined in any branch except one or more of those named in the proviso. He therefore has no certificate as to his qualifications in any other branch and cannot legally be employed to give instruction in any branches except those named in such special certificate. The holder cannot at his own will convert such special certificate into a general certificate. If such were the case it would never be necessary for the applicant to qualify himself in more than one branch of study. The qualification to teach physical culture does not necessarily imply that the person is a classical scholar, or that he is capable of giving instruction in mathematics, drawing, music, or in any branch except that named in his certificate.

The Act of 1905, above stated, emphasizes these views, for that Act, after providing the manner in which some of such special certificates may be granted, adds:

"Such a special certificate * * * shall entitle the holder to teach such special branch or branches stated in said certificate."

Very truly yours,

ALBERT J. GALEN,

Attorney General.