

**State Board of Education—Parochial Schools—Schools—  
Teachers' Certificates.**

The state board of education is the head of the state educational institutions and has no power to prescribe courses or supervise parochial schools. It may approve the issuance of teachers' certificates to graduates of private schools under certain conditions.

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December 22, 1924.

My dear Mr. Brannon:

The Rev. Norbert C. Hoff, president Mount St. Charles College, has asked for an opinion as to the competency of the state board of education to authorize and approve normal courses under private auspices, as is the case with component institutions of the State University.

This information is desired in order that steps may be taken to secure legislation covering this point, should it not be covered by present statutory provision.

The proposition submitted affects the right of the state board of education to set up standards to be met by private institutions which may undertake to parallel normal courses offered at Dillon and elsewhere; "that the state board of education arrange for the proper supervisory control of any such courses as may be organized so that it may possess a basis for granting credit for work in such courses in schools other than those which are tax supported; that the state board of education will permit announcement to be made by a private school in this state electing

to give such normal courses to the effect that the state board of educational examiners will automatically honor normal credits earned outside of state institutions provided these standards already referred to are satisfactorily adhered to."

Section 11 of article XI of the constitution places the general control and supervision of the State University and other state educational institutions in a state board of education, whose powers and duties shall be prescribed and regulated by law.

Section 836, R. C. M. 1921 confers extensive powers upon the state board of education but those powers are confined wholly to state institutions.

The state board of education has no power at present to supervise, direct, control, or even advise, any private educational institution, nor could this power be conferred upon the board by mere consent of any institution. Any attempt on the part of the board to prescribe courses of study, or to supervise or control such courses as it might prescribe, or to supervise or control the methods of teaching, or to supervise or control the selection of teachers, or to supervise and control the qualifications of teachers, would be merely the private act of the individual members of the board.

All statutory boards and officers have and can officially exercise only such powers as are expressly given them by statute, or such as are necessarily implied from those expressly given.

The supervision of a private educational institution by the state board of education not only is not implied from its general powers to supervise and control the public educational institutions of the state, but would seem to be in conflict with such duty.

It is, therefore, my opinion that some further legislation is necessary before the board may undertake the supervision, direction or control of courses of study, standards, required, credits, etc., of any private educational institution, and that mere consent by the institution to be so supervised would not confer any authority to do so.

The state board of education at present has and does recognize diplomas from other institutions. Section 1092, R. C. M. 1921, as amended by chapter 131, session laws of 1923, contains the following:

"(3) Diplomas From Other Institutions—A state certificate may be issued by the state board of educational examiners to a graduate of any other college, university, or normal school within or without the state in accordance with regulations established by said board and approved by the state board of education; provided, that such regulations shall not authorize the issuance of a state certificate to a graduate of any institution whose requirements for graduation are not substantially the full equivalent of those of the corresponding institution of the University of Montana; nor shall said certificate be granted to any such graduate whose preparation in professional courses is

not equivalent to those required for the issuance of a state certificate from the corresponding institution of the University of Montana."

The same section further provides:

"A life certificate may be issued by the state board of educational examiners to a graduate of any other college, university, or normal school within or without the state in accordance with regulations established by the state board of educational examiners and approved by the state board of education, provided that such regulations shall not authorize the issuance of a life certificate to a graduate of any institution whose requirements for graduation are not substantially the full equivalent of those of the corresponding institution of the University of Montana, nor to anyone whose preparation in professional courses is not substantially equivalent to the certificate requirements of the corresponding institution of the University of Montana; and provided, further, that such regulations shall not authorize the issuance of a life certificate to any person who does not present satisfactory evidence of having taught successfully for at least as long a time after graduation as is required by law for the issuance of life certificates to graduates of the several institutions of the University of Montana."

Under these provisions it was obviously the intention of the legislature to permit the issuance of certificates to graduates of any college, whether private or parochial or one supported by public taxation. The entire matter is placed in the discretion of the state board of educational examiners, subject to approval by the state board of education. The state board of educational examiners may establish regulations for the issuance of certificates to graduates of such colleges or universities. Whatever regulations may be established by the state board of educational examiners must also be approved by the state board of education. The only limitations with reference to the nature of the regulations are those set forth in the above quoted section.

It is, therefore, my opinion that the state board of educational examiners may establish regulations, subject to the approval of the state board of education, authorizing the issuance of a certificate to a graduate of a parochial college or university.

Very truly yours,

L. A. FOOT.

Attorney General.