

## VOLUME NO. 35

## Opinion No. 60

**SCHOOLS AND SCHOOL DISTRICTS — Teachers, certificates, life certificates; SCHOOLS AND SCHOOL DISTRICTS — Teachers, certification, qualifications to hold; SCHOOLS AND SCHOOL DISTRICTS — Teachers, tenure. Sections 75-6001, 75-6007, 75-6008, 75-6101, 75-6102, and 75-6103, R.C.M. 1947.**

**HELD: A public school teacher who holds a "life certificate" has tenure after being elected to the fourth consecutive year of employment, regardless of when that teacher received a college degree.**

January 14, 1974

Mr. Gordon R. Hickman  
Wheatland County Attorney  
Office of the County Attorney  
Harlowton, Montana 59036

Dear Mr. Hickman:

You have requested my opinion regarding the following question:

Does a teacher who holds a "life certificate" have tenure after being elected for the fourth consecutive year of employment, or does tenure attach in the fourth consecutive year of employment after a teacher who holds a "life certificate" has received a college degree?

Section 75-6101, Revised Codes of Montana, 1947, defines "teacher" as:

... any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction ... and who is employed by a district as a member of its instructional, supervisory, or administrative staff.

Section 75-6102, R.C.M. 1947, provides that the trustees of a school district are only authorized to employ in a teaching capacity a person who holds a valid Montana teacher certificate or someone for whom an emergency authorization of employment has been issued.

The method of teacher certification for employment in the Montana school system is provided for in section 75-6001, et seq., R.C.M. 1947. These statutes specify that the superintendent of public instruction is authorized to issue teacher certificates based on various classifications. Section 75-6008, R.C.M. 1947, provides that such certificates are valid for a statutorily prescribed number of years, after which they must be renewed. There is no mention made in section 75-6001, et seq., R.C.M. 1947, of a "life certificate" or its validity. However, under subsections (6) and (8) of section 1092, R.C.M. 1935, now repealed, "life certificates" were issued to teachers and were declared valid for the life of the teacher. The validity of these "life certificates" is specifically recognized in section 75-6007, R.C.M. 1947, which provides in part:

No provisions of this title shall affect or impair the validity of any certificate that is in force on the effective date of this act, or the rights and privileges of the holders by virtue thereof, except that any certificates may be suspended or revoked for any of the causes and by the procedures provided by law.

Tenure for teachers in the Montana public school system is set out in section 75-6103, R.C.M. 1947, which provides in pertinent part:

Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent, the teacher shall be deemed to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed contract with such teacher, ...

Thus, "life certificates" have not been revoked or invalidated for tenure purposes by changes in statutory requirements for teacher certification, but have been continuously recognized by revised Montana law. And since they are valid, a duly qualified teacher with a "life certificate" has tenure attach in the fourth consecutive year of employment. The fact that a teacher with a "life certificate" later receives a college degree, a requirement for certification under present Montana law, in no way affects the already-attached tenure rights of that teacher.

**THEREFORE, IT IS MY OPINION:**

A teacher with a "life certificate" has tenure after being elected to the fourth consecutive year of employment, regardless of when that teacher received a college degree.

Very truly yours,

**ROBERT L. WOODAHL**  
Attorney General