

651012.3

**TENURE COMMISSION: Membership of.**

A person who serves as a full time counselor to students in a school but does not perform any direct classroom instruction in any subject area is not a "classroom instructor" under the Tenure of Teachers Act and cannot serve as one of the two classroom instructor members of the State Tenure Commission.

October 12, 1965.

No. 4399

The Honorable Joseph M. Snyder  
State Representative  
The Capitol  
Lansing, Michigan

You have requested my opinion on the following question:

May a full time counselor who does not perform any direct classroom instruction in any subject area serve as one of the two classroom instructor members of the State Tenure Commission?

Act 4, P.A. 1937, Extra Session, as amended, being C.L. 1948 §§ 38.71 et seq.; M.S.A. 1959 Rev. Vol. §§ 15.1971 et seq., is known as the Tenure of Teachers Act. Article VII, Sec. 1 of the Tenure of Teachers Act, as last amended by Act 242, P.A. 1963, being M.S.A. Cur. Mat. § 15.2031, provides:

"There is hereby created a state tenure commission of 5 members: 2 of whom shall be classroom instructors, 1 a member of a board of education of a graded or city school district, 1 a person not a member of a board of education or a teacher, and 1 a superintendent of schools. The superintendent of public instruction shall be ex officio secretary of the commission, and the attorney general shall assign to the commission an assistant who shall be legal advisor to the commission."

Two of five members of the State Tenure Commission are required to be "classroom instructors." One member is required to be a superintendent of schools.

In Article I, Sec. 1 of the act the legislature has defined the term "teacher" as used in the act to include all certificated persons employed by any board of education or controlling board of any public educational institution. The term "certificated" as used in Sec. 1 shall be as defined by the state board of education in accordance with Article I, Sec. 2 of the act.

Sec. 573 of Act 269, P.A. 1955, as amended, being C.L.S. 1961 § 340.573; M.S.A. 1959 Rev. Vol. § 15.3573, sets forth the minimum qualifications for persons to be employed as superintendent of schools of a school district. These include the requirement that he shall possess at least a Bachelor degree from a college acceptable to the state board of education, and be the possessor of or be eligible for a teacher's certificate or have educational qualifications equivalent thereto in accordance with standards determined by the state board of education.

Thus, the superintendent of schools member of State Tenure Commission is probably included within the term "teacher" as set forth in Article I, Sec. 1, and the legislature made a proper distinction from the term "teacher" by using the words "classroom instructor" in Article VII, Sec. 1 of the Tenure of Teachers Act to insure that there are two classroom instructor members of the commission.

Webster's Third New International Dictionary defines the word "classroom" as "a place for conducting formal instruction of students by a teacher in a school." This same dictionary defines the word "instructor" as "one who instructs: Teacher."

It must follow that Article VII, Sec. 1 of the Tenure of Teachers Act, as amended by Act 242, P.A. 1963, requires that two of the five members of the State Tenure Commission must be teachers who provide formal instruction of students in a school.

A person who serves as a full time counselor to students but does not perform any direct classroom instruction in any subject area cannot serve as a classroom instructor member of the State Tenure Commission.

Therefore, it is the opinion of the Attorney General that the term "classroom instructor" found in Article VII, Sec. 1 of Act 4, P.A. 1937, Extra Session as amended by Act 242, P.A. 1963 includes teachers who provide formal instruction of students in a school but not a person who devotes his full time as counselor to students.

FRANK J. KELLEY,  
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651012.2

**SCHOOLS: Districts – Board.**

**Effect on board members already in office of salary voted for first time.**

Board members of a third class school district, already in office when a salary is first authorized by the electors, may not receive such salary prior to the expiration of their current term.

No. 4459

October 12, 1965.

The Honorable Joseph N. Snyder  
State Representative  
The Capitol  
Lansing, Michigan

You have requested my opinion on a question which can be stated as follows:

Where a statute provides that school board members shall receive no compensation unless authorized by the electors of the district, and the same section prohibits an increase of salary after election, may those board members already in office at the time a salary is first authorized begin to receive the salary prior to the expiration of their current term?