



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

November 9, 1976

Harriet

R76-207
BRUCE E. BABBITT
ATTORNEY GENERAL

76-309

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ARIZONA ATTORNEY GENERAL

Donald W. Harris, Esq.
Maricopa County Attorney
101 West Jefferson
Phoenix, Arizona 85003

Attention: Q. Dale Hatch
Deputy County Attorney

Dear Sir:

This office has reviewed your opinion letter of April 27, 1976, to Dr. William T. Randall, Superintendent of Scottsdale Public Schools, concerning the effect of a felony conviction on the certification of a teacher. We concur with your opinion except insofar as the last sentence in the first paragraph on page 2 of that opinion is concerned.^{1/} Because that statement is not necessary to respond to the questions propounded and raises potentially complex constitutional issues which we deem unnecessary to address at this time we do not concur in that specific statement.

Very truly yours,

BRUCE E. BABBITT
The Attorney General

BEB:DEP:hc

^{1/} "An employee who is not under contract can be dismissed without a hearing for a conviction of a felony."



OFFICE OF THE MARICOPA COUNTY ATTORNEY

MOISE BERGER COUNTY ATTORNEY

400 SUPERIOR COURT BUILDING, 101 W. JEFFERSON, PHOENIX, ARIZONA



April 21, 1976

Dr. William T. Randall
Superintendent
Scottsdale Public Schools
P.O. Box 15428
Phoenix, Arizona 85060

School Opinion No. 76-18

Dear Dr. Randall:

This opinion is in response to your request for an opinion on the following questions:

1. Is the conviction of a felony cause for revocation or lifting of a certificated employee and/or automatic dismissal of an employee in the public schools?
2. Should the certification office of the State Department of Education be notified of felony conviction for certificated employees?
3. Who is responsible for proper notification of State Department of Education -- the school district or court?

ANSWER:

1. See discussion.
2. See discussion.
3. See discussion.

DISCUSSION:

A.R.S. §15-102(24) gives the Board of Education the power to revoke certificates or life diplomas for immoral or unprofessional conduct or evident unfitness to teach. A conviction of a felony is sufficient reason for revoking a certificate or life diploma if it is based on immoral conduct, if it is evidence of unprofessional conduct or if it shows an unfitness to teach. According to the regulations of the Board of Education, conviction of a felony is prima facie evidence of unprofessional conduct.

According to the teacher tenure law and general contract law, there is no automatic dismissal of an employee who is under contract. The employee is entitled to a hearing and good cause for the dismissal must be shown to the hearing board. Usually a conviction of a felony is sufficient cause for dismissal if it is based on immoral or unprofessional conduct or indicates an unfitness to teach. An employee who is not under contract can be dismissed without a hearing for a conviction of a felony.

The person to notify when a certificated teacher is convicted of a felony is the Superintendent of Public Instruction. As I understand it, the complaint is then given to the Professional Practice Advisory Committee for further action, including due process hearings.

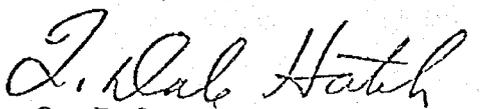
Any person who has a complaint against a teacher can notify the Superintendent of the complaint. According to the Department of Education, a teacher must notify the Superintendent of Public Instruction within ninety (90) days after being convicted of a felony.

Normally the courts do not notify the Superintendent of Public Instruction of a conviction of a felony. This would indicate that either the teacher or the school district or both should notify the Superintendent of the conviction for possible action.

A copy of this opinion is being sent to the Attorney General for his concurrence or revision.

Very truly yours,

MOISE BERGER
MARICOPA COUNTY ATTORNEY


Q. Dale Hatch
Deputy County Attorney