



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

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November 28, 1983

Mr. Sandor Shuch
Deputy Maricopa County Attorney
201 West Jefferson, 7th Floor
Phoenix, AZ 85003

Re: I83-131 (R83-126)

Dear Mr. Shuch:

We have reviewed your opinion dated July 27, 1983, to the Superintendent of Tempe Union High School District. The district asked:

1. What constitutes a full-time teacher?
2. If a tenured teacher requests and is assigned a part-time position in the district, is the tenure jeopardized?
3. Can tenure be returned to a tenured teacher on a part-time contract upon acceptance of a full-time contract for the following year, or does the probationary period have to be repeated to restore tenure?

Your opinion is revised as follows:

A "full-time classroom teacher" for purposes of A.R.S. § 15-501.A.3 and 5^{1/2} is a teacher who works full days. Ariz. Atty. Gen. Op. 178-153. In that same opinion, we also discussed the effect of a continuing teacher accepting a part-time position. We said:

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1. A continuing teacher is defined as:

[A] teacher who has achieved continuing status would lose that status by taking a less-than-full-time contract. The teacher would no longer meet the requirement of A.R.S. § 15-251.A.2 [now § 15-501.A.3] that he be employed as "a full-time classroom teacher." As a consequence, a continuing teacher who changes to part-time status loses significant protections under the Teacher Tenure Act.

We have also addressed the last question asked by the district concerning "restoration of tenure" after a continuing teacher is employed less than full time. We said:

Should the board choose to offer a subsequent full-year contract to a part-time teacher who had previously obtained tenure, that teacher would revert to "continuing teacher" status under A.R.S.

1. (Continued)

[a] certified teacher who is employed under contract in a school district as a full-time classroom teacher, a full-time classroom teacher employed under contract in an accommodation school, a school principal devoting not less than fifty per cent of his time to classroom teaching, or a supervisor of school children's activities, and whose contract has been renewed for his fourth consecutive year of such employment in the district.

A.R.S. § 15-501.A.3.

A probationary teacher is defined as:

[a] certified teacher who is employed under contract by a school district as a full-time classroom teacher, school principal devoting not less than fifty percent of his time to classroom teaching, or a supervisor of school children's activities, and who is not a continuing teacher.

A.R.S. § 15-501.A.5.

Mr. Sandor Shuch
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§ 15-251.A.2 [now § 15-501.A.3]. The teacher would be under contract "as a full-time classroom teacher." In previously obtaining tenured status the teacher would have satisfied the requirement of having his contract "renewed for his fourth consecutive year of such employment."

Ariz.Atty.Gen.Op. I78-153; Ariz.Atty.Gen. Op. I78-286.

Another issue related to these questions is what constitutes a "year of such employment in the district" as that phrase is used in the definition of a continuing teacher. A.R.S. § 15-501.B provides that the major portion of a school year is equivalent of a year of employment in the district. We have previously concluded that the major portion of a school year is one-half of the duty days plus one day. Ariz.Atty.Gen.Op. I78-150. Thus, to maintain continuing teacher status, the teacher must work full time (full days) for the major portion of the school year. Under the example used in the opinion request, a continuing teacher who works full days for three-fifths of the duty days of the school year would retain his or her status as a continuing teacher. Conversely, a continuing teacher who works every school day, but for only three-fifths of the day, does not maintain continuing teacher status.

Sincerely,



BOB CORBIN
Attorney General

BC/VBW/kb

OFFICE OF THE MARICOPA COUNTY ATTORNEY



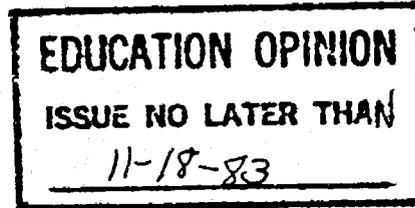
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PHOENIX, ARIZONA 85003

TOM COLLINS, COUNTY ATTORNEY

NORMAN C. KEYT, CHIEF DEPUTY

September 15, 1983

The Honorable Robert Corbin
Attorney General
1275 West Washington
Phoenix, Arizona 85007



9-21-83 pc
WHITEHEAD
R83-126

Dear Mr. Corbin:

Enclosed is a letter of legal advice which was sent to Dr. John C. Waters,, Superintendent of the Tempe Union High School District on July 27, 1983. This is being sent to you for your review.

Yours truly,

TOM COLLINS
MARICOPA COUNTY ATTORNEY

A handwritten signature in black ink, appearing to read "Sandor Shuch".

Sandor Shuch
Deputy County Attorney

OFFICE OF THE MARICOPA COUNTY ATTORNEY



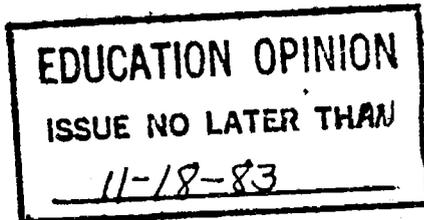
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TOM COLLINS, COUNTY ATTORNEY

NORMAN C. KEY, CHIEF DEPUTY

July 27, 1983

Dr. John C. Waters,
Superintendent
Tempe Union High School Dist.
500 West Guadalupe Road
Tempe, Arizona 85283



9-21-83 jc
WHITEHEAD
R83-126

Dear Dr. Waters:

This letter is in reply to your letter of July 7, 1983. You pose the following questions.

1. If a tenured teacher requests, and is assigned a part-time position in the District, is the tenure jeopardized? (e.g., a teacher splits a contract with another teacher -- a 3/5 position and a 2/5 position. Can the tenure be protected for both?)
2. Can tenure be returned to a tenured teacher on a part-time contract upon acceptance of a full-time contract for the following year, or does the probationary period have to be repeated to restore tenure?
3. What constitutes a full-time teacher?

1. A teacher can only gain and keep statutory tenure as provided for in the Arizona Teacher's Tenure Act. A.R.S. §15-501 defines a continuing teacher as one who teaches continuously for the major portion of a school year. The words major portion mean at least more than 50%. Therefore a teacher who teaches 50% or less is not entitled to statutory tenure. If 2 continuing teachers split a teaching assignment on a 50% basis, both lose statutory tenure. If the split is 3/5 and 2/5 the teacher who teaches 3/5 retains statutory tenure but the teacher who teaches 2/5 loses her tenure.

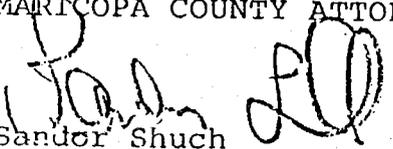
2. Once a teacher loses statutory tenure, he must repeat the probationary period to acquire such tenure. The Board can in its discretion contract with such a teacher and give him contractual rights similar to those enjoyed by tenured teachers. However it cannot give

him rights to the detriment of teachers with statutory tenure.

3. See 1, supra.

Yours truly,

TOM COLLINS
MARICOPA COUNTY ATTORNEY


Sandor Shuch
Deputy County Attorney

cc: All Board Members

(NOTE: This letter constitutes legal advice and is protected from disclosure by the attorney-client privilege. Unauthorized disclosure will result in a waiver of the privilege. The contents should only be disclosed after the Board decides upon such action in a formal meeting)