

**STATE SUPERINTENDENT OF PUBLIC INSTRUCTION:  
Interpretation of Chapter 202 of the Acts of 1943 with  
reference to the tenure rights of a holder of a Temporary  
Contract as compared to the holder of a Regular Contract.**

November 22, 1943.

Hon. Clement T. Malan,  
State Superintendent of Public Instruction,  
State House,  
Indianapolis 4, Indiana.

Dear Dr. Malan:

Your letter of November 5, 1943, received as follows:

“Will you kindly give us your official opinion on the following question:

“Does the holder of a Temporary Contract, as provided by the Temporary Contract Law, Chapter 202 of the Acts of 1943, have the same tenure rights under the tenure Laws of 1927 and 1933 as a holder of the Regular Contract?”

Section 28-4330, Burns' R. S. 1943 Supp., being Sec. 1, Ch. 202, Acts of 1943, provides in part as follows:

“The uniform teacher's contract form as provided for in chapter 97 of the Acts of 1927 and acts amendatory of and supplemental thereto shall hereafter be prescribed by the state superintendent of public instruction in two (2) alternate forms, the one to be known as the Regular Teacher's Contract and the other to be known as the Temporary Teacher's Contract. The temporary teacher's contract form shall be used only in cases where a teacher is employed to serve because of absence of a regular teacher who shall have been granted a leave of absence by the school corporation for the purpose of engaging in military service or in service directly auxiliary thereto, for professional study or advancement, for exchange teaching or for extended disability that shall be attested to by a licensed physician. \* \* \*

"The temporary teacher's contract shall contain all the provisions of the regular teacher's contract except those providing for continued tenure of position.

"\* \* \* The temporary contract form shall include a blank space in which shall be inserted the name of the teacher having been granted such leave of absence, and the name of any one teacher on leave of absence shall be used on not more than one (1) such temporary teacher's contract at the same time. The expiration date of the temporary teacher's contract shall be the date of the return of the teacher on leave of absence but in no case later than the end of the school year.

"\* \* \*

"It shall be the duty of the state superintendent of public instruction to prescribe the forms as referred to herein and to furnish to all the school corporations of the state a copy of said forms and to require that each school corporation include in its semiannual report on average daily attendance a statement that all provisions of this act have been complied with."

It is my opinion that a teacher employed under a Temporary Teacher's Contract, under the above statute, is not entitled to tenure rights under the tenure laws of 1927 and 1933. From the terms and provisions of the above statute, it is clear the legislature intended such temporary teacher's employment to be for the period of the regular teacher's absence, and in no event for a period of time greater than the remainder of the school year.

It is further submitted the fact that the State Superintendent of Public Instruction is required to prepare for use by the school corporations, both the Regular Teacher's Contract and the Temporary Teacher's Contract, and is expressly prohibited from providing in the Temporary Teacher's Contract a clause providing for continued tenure of position, clearly shows the legislative intent to deny such tenure rights to teachers employed under temporary contract.