tory collections and other material or property having any relation to any of the various county historical museums.

PUBLIC INSTRUCTION, DEPARTMENT OF: Equivalency certificates, authority of State Board of Education to issue, discontinue, and formulate rules and regulations for examination of applicants.

May 9, 1939.

Hon. Floyd I. McMurray,
State Superintendent of Public Instruction,
Department of Education,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion in answer to the following questions:

"1. Upon what authority may the State Board of Education issue an equivalency certificate?

2. May the practice of giving equivalency examinations and issuing equivalency certificates legally be discontinued?

3. Does the State Board have the power to formulate rules and regulations for the examination of applicants for equivalency certificates?"

I find two sections of the statute which have reference to the issuance of equivalency certificates, as I understand the term to be used. They are section 28-4926 of Burns Indiana Statutes Annotated (1933), and section 28-4316 of Burns Indiana Statutes Annotated (1933). The last of these sections is section 4 of chapter 101 of the Acts of 1907, the same being an Act entitled:

"An Act to classify and regulate the minimum wages of teachers in the public schools."


Section 4 made it the duty of the State Board of Education from time to time to provide regulations which shall define the words "high school" and "equivalent" as the terms are used in the Act. The term "equivalent" is used only in section 2. However, this section, as amended by chapter 51 of
the Acts of 1913, was declared to be unconstitutional in the case of Hobbs v. Gibson School Township reported in 195 Ind. at page 1, so that there is now nothing upon which the provisions of section 4 above referred to could operate. For the purpose of your questions, therefore, I think that section 28-4316 of Burns Indiana Statutes Annotated (1933), may be disregarded.

Section 28-4926 of Burns Indiana Statutes Annotated (1933) provides as follows:

"Any honorably discharged soldier, sailor or marine who served in the World War and who has been placed in training by the federal board for vocational training, shall, if the course which he shall have elected to pursue covers the branches of learning taught in the high schools of the state, be entitled to take a special examination upon the completion of such course, or at the end of any year's study, to ascertain his competency and proficiency in the branches in which he is examined. If any such person shall make a satisfactory passing grade in a sufficient number of subjects to constitute the equivalent of a high school course, he shall be granted a diploma, to be issued by the State Board of Education, and to be signed by the state superintendent of public instruction. The questions to be used in testing the proficiency of such persons shall be prepared by the state superintendent of public instruction and the state superintendent of public instruction shall make such arrangements, including both time and place, as may be most desirable and convenient for persons making application to be examined, and shall provide for the examination of all papers and manuscripts submitted."

This section is still in effect and provides for the issuance of a diploma to honorably discharged soldiers, sailors or marines who served in the World War and who have been placed in training by the federal board for vocational training if the course pursued covers the branches of learning taught in the high schools of the State and if any such person applying makes a satisfactory passing grade in a sufficient number of subjects to constitute the equivalent of a high school course.
The answer to your first question is that the authority for issuing such diplomas is the authority contained in section 28-4926 of Burns Indiana Statutes Annotated (1933). It follows also that the practice of giving the examinations provided in the above section may not legally be discontinued so long as there is anyone applying. Your question number two is answered accordingly.

I think your third question should be answered in the affirmative, so far as the details are not prescribed by the Act itself. It will be noted that the Act itself requires the person taking the examination under the Act to make a satisfactory passing grade in a sufficient number of subjects to constitute the equivalent of a high school course. This requirement could not be, of course, varied but there are undoubtedly details which may be fixed by the board. Your third question is answered in the affirmative.

TAX COMMISSIONERS, STATE BOARD OF: Whether farms owned by colleges and hospitals, operated with students or employees, products of which are used by institution, are tax exempt. May 10, 1939.

Hon. Philip Zoercher, Chairman,
State Board of Tax Commissioners,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following question:

"Where a college or hospital owns a farm and operates same with its students or employees, the products of which are used by such institution, is such farm subject to taxation?"

While it is not so stated, I assume for the purposes of the question that the hospital referred to is a charitable institution and that the farm referred to is owned by such institution in fee simple. It is also assumed for the purposes of the question that the college referred to owns such real estate in fee simple.