the conduct of the employment agency that would amount to "immorality" within the meaning of the statute. In my opinion, however, the language "misconduct in office" refers to misconduct in connection with the performance of teaching duties.

"Immorality" is defined as a "state or quality of being immoral;" and a thing is "immoral" which is "inconsistent with rectitude, purity or good morals" or is "contrary to conscience or the moral law."

Webster's New International Dictionary.

Whether or not the teacher could reasonably be charged with immorality in the hypothetical case presented in your fourth question, would depend upon additional facts not set out in your letter.

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AUDITOR OF STATE: Whether gasoline used in CWA trucks is subject to refund of gasoline tax.

December 20, 1933.

Hon. Floyd E. Williamson,
Auditor of State,
Indianapolis, Indiana.

Dear Mr. Williamson:

I have at hand your letter of date, December 20th, in part as follows:

"Since the Civil Works program has been started in this State a number of people have been employed to operate their trucks on the public highway in the repair and construction of roads and streets. Therefore, the question has arisen as to whether or not gasoline used in this equipment is subject to refund of the gasoline tax."

It is my understanding that the Federal Government is only interested to the extent of furnishing the finance in these projects and that persons using trucks are merely employed by the various agencies of the Government at a certain price per hour and that in reality the money paid by the Federal Government is paid for services rendered and that the Federal Government itself is not the purchaser of the gasoline.
It is, therefore, my opinion that gasoline purchased and used as herein set out is subject to the payment of the tax and not subject to refund.

PROBATION, DIRECTOR OF: Probation officers; tenure in Marion county; authority of director to give examination.

December 21, 1933.

Hon. Francis D. McCabe,
Director of Probation,
State of Indiana,
Indianapolis, Indiana.

Dear Sir:

I have before me your request that an official opinion issue in response to the following specific inquiries:

"Inasmuch as it requires three judges of the Municipal Court, Marion County, to make an order appointing any probation officer or officers to serve in such court, in your opinion would probation officers in Marion County hold their office at the will of such judges and their term of office expire at the end of each year when a new judge is appointed."

"At the last monthly meeting of the State Probation Commission that body empowered the Director of Probation to 'prepare and give a written examination in cases where necessity arises; but that certification of such persons passing the examination be brought before the Commission for oral examination at the next regular meeting.' The director of probation has decided that 'an emergency has arisen' in that a new judge is to be appointed to the Municipal Court of Marion County and should the judges of that court determine to make a change in the personnel of the probation department they would have no basis for the appointment since there is at present no list of 'persons eligible for appointment' pursuant to Section 4 of Chapter 260 of the Acts of 1933. In view of the above may the written examination be given?"

In response to your first question, it is important to note that the statute authorizing the appointment of local proba-