

GARY K. NELSON, THE ATTORNEY GENERAL  
STATE CAPITOL  
PHOENIX, ARIZONA

April 5, 1971

DEPARTMENT OF LAW OPINION NO. 71-12 (R-40)

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REQUESTED BY: STATE BOARD OF EDUCATION

- QUESTIONS:
1. While it appears that the Arizona Revised Statutes are silent on certificated teachers or public employees of school districts striking, the State Board should be informed whether it is the opinion of the Attorney General at this time that it is legal or illegal for employees of a school district to strike.
  2. While the act of striking at this time is not clear, we are faced with the question of whether the particular kind of violation in this situation constitutes an unprofessional act as to be grounds for revocation/suspension of a teaching certificate.

- ANSWERS:
1. See body of opinion.
  2. See body of opinion.

This opinion will differ from the usual Department of Law Opinion in the following respects:

- A. It is limited to the specific facts set forth in the opinion.
- B. It does not contain the usual legal citations and quotes, with the exception of references to the Arizona Revised Statutes.
- C. It will contain a bibliography of cases for those who wish to check the sources on which the text of the opinion is based.

sovereign power of the state and thus has no right to strike or to interfere with the state's governmental functions.

The choice to become a public employee carries with it the surrendering of the right to strike, which the individual would have as an employee of a private enterprise. That teachers are public employees cannot be argued, and many of the cases which have established the no strike doctrine have been cases involving teachers' associations.

Further, the existence of the tenure laws in Arizona (A.R.S. §§ 15-251, et seq.) indicates the intention of the Legislature to consider teachers as public employees, thus providing them statutory job protection in lieu of the right to strike. For these reasons it is the opinion of this office that teachers are public employees, and that it is therefore unlawful for teachers to strike.

Question 2. The State Board of Education is charged by law with the supervision and control of the certification of teachers and the revocation of all certificates or life diplomas for immoral or unprofessional conduct or for evident unfitness to teach (A.R.S. §§ 15-102.20 and 15-102.22). The State Board has set forth a method for the review of teachers' qualifications and a method of hearing complaints brought against teachers pursuant to this statutory duty.

A.R.S. § 15-201 sets forth the general duties required of teachers in addition to those imposed by the local boards of trustees or education.

A.R.S. § 15-208 states:

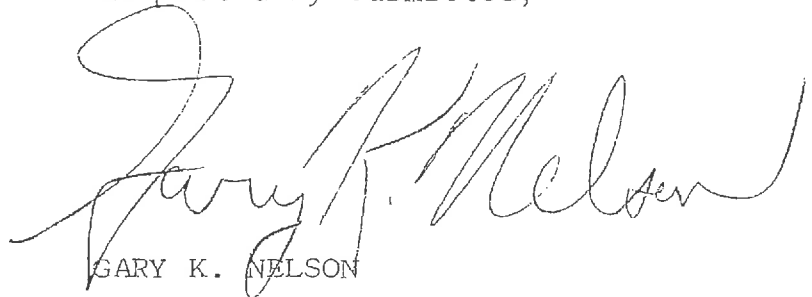
"A teacher who fails to comply with any provision of this chapter is guilty of unprofessional conduct and his certificate shall be revoked."

A.R.S. § 15-258 states:

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The Attorney General may advise the Board as to the law, but any decision made as to the revocation or suspension of certificates must be made by the Board, and the Attorney General may not invade the jurisdiction of the Board by attempting to define unprofessional acts, as a matter of law.

Respectfully submitted,

A large, stylized handwritten signature in cursive script, appearing to read "Gary K. Nelson".

GARY K. NELSON  
The Attorney General

GKN:REW:e11

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124 S.E.2d 733
16. Hughes v. Superior Court of California,  
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17. In re Block,  
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19. School Committee v. Pawtucket Teachers Alliance  
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20. 31 A.L.R.2d 1142