

APRIL 3, 1951.

HON. JOHN H. BOSSHART,  
*Commissioner of Education,*  
175 West State Street,  
Trenton 8, New Jersey.

## FORMAL OPINION—1951. No. 12.

DEAR COMMISSIONER:

You have requested the opinion of this office concerning the right of colleges in this State to confer what may be termed "degrees in course" and "honorary degrees," respectively. It is believed that your specific inquiries may be fairly stated and answered as follows:

1. Does a college which conferred degrees in course prior to March 17, 1891, have authority generally, without prior approval from the State Board of Education, to award other degrees in course not given by said college prior to the aforesaid date? For example, if a college conferred only a bachelor of arts degree before 1891, may it now confer a master of arts or bachelor of science degree without State Board approval? The answer is "Yes."

2. May any college confer honorary degrees without first securing approval of the State Board of Education? Answer—"Yes."

The sections of the Revised Statutes which govern these questions read as follows:

18:20-2. Right of colleges to give diplomas and confer degrees. Subject to the provisions of sections 18:20-5 to 18:20-17 of this title, any college in this State founded or hereafter to be founded under and by virtue of the provisions of a general act of the Legislature, may, from time to time, give diplomas and confer degrees upon those who shall successfully complete prescribed courses of study, and confer honorary degrees upon such others as shall be recommended therefor by its board of trustees. Nothing in this section shall be construed to authorize a college to confer any degree or diploma authorizing the practice of medicine, dentistry, or law.

18:20-8. Submission and approval as prerequisite to conferring of degrees. No school, corporation, association or institution of learning conducted within this State, nor any officer or member thereof, in recognition of the attainment or proficiency of any person in pursuing or graduating from any course or courses of study, arts, or learning conducted by it or another such school, corporation, association or institution, shall admit any such person to the grade of a degree by conferring, or participating in conferring, any degree upon any person without first submitting the basis or conditions thereof to the State Board of Education, and obtaining its approval thereof, and of the practice of conferring and bestowing such degrees.

Nothing contained in this section shall apply to any school, corporation, association or institution of learning, or officer or member thereof, which was established and conducted within this State on March seventeenth, one thousand eight hundred and ninety-one, and was then in the course of admitting persons to the grade of a degree by conferring the same upon them in recognition of their attainments or proficiencies, nor to any school conducted under the public school system.

Under section 18:20-2, the colleges clearly possess the right to confer in general both degrees in course and honorary degrees without approval from the State board, except as such approval may be required by anything contained in sections 18:20-5 to 18:20-17. Of the latter, only section 18:20-8 appears material to the present discussion, and the questions raised are thus narrowed to the effect, if any, of that section upon the general grant of authority contained in 18:20-2.

Section 18:20-8 is manifestly concerned only with degrees awarded for attainment or proficiency "in pursuing or graduating from any course or courses of study, arts or learning," and thus it does not affect the general power of any college to bestow honorary degrees. The same section provides, furthermore, that "nothing in this section shall apply to" any institution of learning which in 1891 was conferring degrees in recognition of attainment or proficiency. That proviso, in my opinion, renders the entire section inapplicable to any college which was bestowing any degree in course in 1891, thereby leaving such college free generally to establish and award new degrees in its own discretion.

Verly truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By : THOMAS P. COOK,  
*Deputy Attorney General.*

APRIL 16, 1951.

CIVIL SERVICE COMMISSION,  
State House, Trenton, N. J.

FORMAL OPINION—1951. No. 13.

GENTLEMEN :

You request to be advised whether a State employee whose services were terminated because of absence occasioned by acute alcoholism is entitled to the vacation leave, which he claims, with pay.

The answer is no.

Such employee has by his conduct forfeited any and all vacation rights.

In *Walters vs. Pension Commission, Trenton*, 120 N. J. L. 39, it was held that a police officer forfeits his right to pension if he is convicted of malfeasance in office even though he had become eligible for pension by reason of having served 20 years and having attained the age of 51 years.

In *McFeeley vs. Pension Commission of New Jersey*, 8 N. J. Super. 575, the court has gone further. It was held that a policeman who was discharged was not entitled to recover amounts which he had contributed to the pension fund.

In *Pendlebury vs. Passaic Valley Sewage Commission*, 122 N. J. L. 344 it was further held that a discharged employee was not entitled to a bonus.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General.*

By : JOHN W. GRIGGS,  
*Deputy Attorney General.*