

Compelling reasons in the public welfare sanction governmental invasions of what otherwise constitute inviolable property rights. Considerations for the protection of the public safety are present in Chapter 236 of the Laws of 1954, with respect both to public and private bodies of water. Unsafe operation of power vessels by unqualified operators imperils the safety of citizens of the State. It clearly serves the public interest that power vessels and operators be licensed and regulations be enforced on private, as well as public, fresh water lakes and streams.

The right of regulation includes the right of entry by inspectors of the Bureau of Navigation. Only persons with a proprietary interest or other right of entry can lawfully engage in power boating on privately owned bodies of water; an operator's license issued by the Department of Conservation and Economic Development confers no privilege on unauthorized persons to operate power vessels on private lakes and streams. See *Walden v. Pines Lake Land Co.*, 126 N. J. Eq. 249, 251 (E. & A. 1939); *Cobb v. Davenport*, 32 N. J. L. 369 (Sup. Ct. 1867).

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DAVID D. FURMAN
Deputy Attorney General

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DECEMBER 31, 1954.

HON. FREDERICK M. RAUBINGER
Commissioner of Education
175 West State Street
Trenton, New Jersey

FORMAL OPINION 1954—No. 26

DEAR COMMISSIONER:

You have requested our opinion on a question arising under Chapter 249 of the Laws of 1954, which provides a schedule of minimum salaries and increments for school teachers. You ask whether the time spent by a teacher in serving under an emergency certificate is included in the employment experience which determines the teacher's position on the salary schedule.

In our opinion, the answer is no.

The act defines "teacher" as including "any full-time member of the professional staff of any district * * * who holds a valid permanent, limited or provisional certificate appropriate to his office, position, or employment." The salary schedule provided in the act is for "teachers in this State", and is based upon "years of employment". The term "year of employment" is defined in the act as meaning "employment by a teacher for one academic year" in one of the institutions listed. Section 9 of the act reads as follows:

"The provisions of this act shall not apply to any person whose appropriate certificate, valid for his office, position or employment is an emergency certificate and to persons employed as substitutes on a day-by-day basis."

The foregoing provisions plainly indicate that only "teachers" as defined in the act are entitled to the benefits thereof. In order that time spent in teaching may be credited towards years of employment for purposes of the salary schedule, such time must have been served as a "teacher", which means a person holding a permanent, limited or provisional certificate, and not one who teaches only on an emergency certificate.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: THOMAS P. COOK
Deputy Attorney General

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FEBRUARY 4, 1954.

HONORABLE FREDERICK M. RAUBINGER,
Commissioner of Education,
175 West State Street,
Trenton, New Jersey.

MEMORANDUM OPINION P-1

DEAR COMMISSIONER:

Your office has requested our construction of Section 18:14-17.3 of the Revised Statutes (Chapter 273, P. L. 1953, Sec. 1), which reads:

"Whenever a board of education, now or hereafter furnishing high school education for the pupils of another school district pursuant to section 18:15-7 of the Revised Statutes, finds it necessary to provide additional facilities for the furnishing of education to high school pupils, it may, as a condition precedent to the provision of such additional facilities, enter into an agreement with the board of education of such other district for a term not exceeding ten years whereby it agrees to provide such education to the pupils of such other district during the term of such agreement, in consideration of the agreement by the board of education of such other district that it will not withdraw its pupils and provide high school facilities for them in its own district during the term of said agreement, except as provided in this act."

Your specific question is whether the ten-year period mentioned in the statute must begin to run not later than the date of the agreement between the two boards of education, or whether such period may by the terms of the agreement begin to run not from the date of the agreement itself but from the date that such additional facilities are actually provided to the sending district.

In our opinion, the latter alternative is permissible under this statute. The purpose of the law is to protect a school district which is to undergo the expense of providing additional facilities in order to accommodate pupils from another district. The protection is furnished by allowing the receiving district to secure from the sending district a binding agreement that the latter district will not withdraw its pupils (except with the consent of the Commissioner of Education) for a specified period, over which the capital expenditures by the receiving district can