

FORMAL OPINION

ployed at the time tenure is vested under the law and, accordingly, preferential status as to reemployment resides only in that institution and not the entire system of higher education.

Very truly yours,

WILLIAM F. HYLAND

Attorney General

By: SHERRIE L. GIBBLE

Deputy Attorney General

August 14, 1975

LEWIS B. KADEN

Counsel to the Governor

State House

Trenton, New Jersey 08625

FORMAL OPINION NO. 19—1975

Dear Mr. Kaden:

You have requested my formal opinion as to whether the New Jersey public schools are required by law to remain open for a specific number of days each year. It is my opinion, for the following reasons, that the public schools in this State are mandated by law to remain open for instruction for a period of not less than 180 days in the school year. This will now formalize advice to the same effect given by me on an informal basis on several prior occasions.

N.J.S.A. 18A:36-1 provides that the school year for all public schools shall begin on July 1 and end on June 30. Each local board of education must determine annually the dates between which its schools shall be open "in accordance with law." N.J.S.A. 18A:36-2. The school laws do not directly specify the number of days during which local boards must keep their schools open. However, N.J.S.A. 18A:58-16 and 31 provide that no apportionment of current expense or school building aid respectively "... shall be paid to any district which has not provided public school facilities for at least 180 days during the preceding school year ..." although the Commissioner may waive this penalty for good cause. This legislative prerequisite to the receipt of state aid has its historical origins in Chapter 1, § 37 of the Laws of 1903 (Second Special Session), which precluded apportionment of state aid "... to any district which shall not have maintained a public school for at least nine months during the preceding school year ...". It is apparent that the Legislature's intent in enacting these provisions was in effect to compel districts to keep their schools open for instruction at least 180 days each school year.

This long standing legislative qualification on the entitlement to state school aid has been incorporated as a general requirement by the Department of Education in its regulations and administrative determinations. The requirement that schools remain open for 180 days has been made explicit by regulation for secondary schools.

ATTORNEY GENERAL

N.J.A.C. 6:27-1.13. In a number of decisions, the Commissioner of Education has specifically set forth this requirement as one applicable to all schools in all districts. See, e.g., *Somma et al. v. Board of Education of Long Branch*, 1974 S.L.D. 276, decided March 13, 1974; *Goldman et al. v. Bergenfield Board of Education*, 1973 S.L.D. 441, aff'd State Board of Education, February 6, 1974 aff'd Docket No. A-1679-73, Appellate Division of the Superior Court, November 22, 1974; *Moldovan et al. v. Hamilton Board of Education*, 1971 S.L.D. 246. Furthermore, the absence of any legislative modification of this requirement indicates implicit acquiescence by the Legislature in the administrative directives of the commissioner on this aspect of the conduct of the public schools.

For these reasons, you are hereby advised that in setting its annual calendar a local board of education shall as a matter of law provide its facilities for not less than 180 days in any school year.

Very truly yours,

WILLIAM F. HYLAND
Attorney General

August 26, 1975

HONORABLE J. EDWARD CRABIEL
Secretary of State
State House
Trenton, New Jersey 08625

FORMAL OPINION NO. 20-1975

Dear Secretary Crabel:

You have asked whether the requirements for voter reregistration set forth in N.J.S.A. 19:31-13 are applicable to registrants changing marital status but not changing their names, and whether women are compelled to reregister under the surname of a new spouse after marriage. For the reasons herein discussed, you are advised that a change of marital status does not necessitate reregistration unless such change also results in a change of name. You are further advised that the marriage of a woman voter registrant does not in itself change the registrant's name within the meaning of N.J.S.A. 19:31-13 if she continues to use her maiden name rather than assuming her husband's surname as her own.

In pertinent part, N.J.S.A. 19:31-13 reads:

“Whenever the registrant after his or her original registration *shall change his or her name* due to marriage, divorce, or by judgment of court, the registrant shall be required to reregister and the commissioner upon receipt of information or notice of such change, shall transfer the permanent registration forms of such persons to the inactive file, subject to the provisions of this section.” (emphasis added).