

J. Y. Interpretation No.332 (December 30, 1993) *

ISSUE: Does the term “continued service” under Article 6 of the Act Governing the Retirement of School Teachers and Staff mean that by the time of retirement, school teachers or principals shall have remained employed continuously for 20 years?

RELEVANT LAWS:

Articles 5, 6 of the Act Governing the Retirement of School Teachers and Staff (學校教職員退休條例第五條、第六條) .

KEYWORDS:

retirement (退休) , school teachers and staff (學校教職員) , continued service (連續任職) .**

HOLDING: The term “continued service” as referred to in Article 6 of the Act Governing the Retirement of School Teachers and Staff means that by the time of retirement, school teachers or principals shall have remained employed continuously for 20 years.

解釋文：學校教職員退休條例第六條所稱「繼續服務」，係指學校之教員或校長，於辦理退休時之職務，與其連續任職二十年之資歷相銜接而無間斷之情形而言。

REASONING: Article 6 of the

解釋理由書：學校教職員退休

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Act Governing the Retirement of School Teachers and Staff states that: "School teachers or principals who have served in a school for 30 years, been employed continuously for 20 years, and have received distinctions in merit evaluations and are still employed may apply for retirement and receive the lump-sum retirement payment, and its units may be increased in accordance with Article 5, provided that the maximum of said units shall be no greater than 81; while the receipt of the retirement fund is by monthly payment, such increase has an upper limit of 95% of the retirement fund." Compared to the restriction on the highest amount of general retirement fund that can be granted to public functionaries, the said lump-sum retirement payment can be increased up to a maximum of 20 units, while the upper limit for the monthly retirement payment can be increased by up to an additional 5% of the original retirement fund. The reason for the difference is because the upper limit of credit basis for the general retirement fund granted to public functionaries for such lump sum retirement payment is 61 units, which such public

條例第六條規定：「教員或校長服務滿三十年，並有連續任職二十年之資歷，成績優異而仍繼續服務者，一次退休金之給與，依第五條之規定，增加其基數，但最高總數以八十一個基數為限；月退休金之給與，以增至百分之九十五為限」與一般公務員退休給與之最高總數限制相較，一次退休金最多可增加二十個基數，月退休金最多可增加原定計算百分比之百分之五。乃因一般公務員退休給與之最高總數，一次退休金為六十一個基數，服務年資滿三十年者，即可獲得，再繼續服務，於退休給與並無增益。故增設上述增加退休給與之規定，使服務已滿三十年之教員或校長，祇須繼續服務，每繼續服務一年，即可增加一次退休金二個基數。全部服務年資達四十年，並合於「連續任職二十年之資歷，成績優異而仍繼續服務」之條件時，共可增加二十個基數，連同原有之六十一個基數，合計為八十一個基數，以鼓勵教員或校長，秉持敬業精神，久於其任，並籍以防止其他人員，於將欲退休時，中途轉任教員或校長，以圖獲得較優之退休給與。條文中以「成績優異而仍繼續服務」一語，緊接於「並有連續任職二十年之資歷」之後，即係此意。從而，其所稱「繼續服

functionaries will be entitled to receive if their period of service has reached 30 years, and there will be no further increase if such public functionaries remain continuously employed. Therefore, the abovementioned Act includes this Article 6 for those school teachers or principals who have served for 30 years and as long as such school teachers or principals continue to provide service, they will receive an additional 2 units in one lump-sum retirement payment for every additional year of service. In the event that such school teachers or principals after completion of a total of 40 years satisfy the requirements of “continuous employment for 20 years with distinctions in merit evaluation and continue to provide service,” they will receive an additional 20 units, which along with the original entitlement of 61 units, will make a total of 81 units. The purpose of the above provision is to encourage school teachers or principals to remain at their position and prevent those who are not currently school teachers or principals from seeking employment (when they have almost reached retirement age) as school teachers or prin-

務」，自係指學校之教員或校長，於辦理退休時之職務，與其連續任職二十年之資歷相銜接而無間斷之情形而言。至於前已連續任職教員或校長二十年之後，轉任督學或其他具有專業性之教育行政工作，嗣再任教員或校長辦理退休者，應否另設規定，則係立法問題，併予指明。

cipals in order to secure a better retirement fund. The phrase “with distinctions in merit evaluation and continuing to provide service” after the term “continuously employed for 20 years” is for the aforesaid purpose. Accordingly, the term “continued service” as referred to therein means that by the time of retirement, school teachers or principals shall have been continuously employed for 20 years. Whether those persons who have served continuously for 20 years and then transfer to supervisory or other education administrative positions to perform professional work are entitled to the abovementioned additional lump-sum retirement payment credit units is a question for the Legislative Yuan and is hereby pointed out.