

J. Y. Interpretation No.203 (February 28, 1986) \*

**ISSUE:** Does the process regarding not rehiring a teacher whose employment contract has ended contradict Articles 15 and 165 of the Constitution?

**RELEVANT LAWS:**

Regulation Governing the Selection of the Teachers and Staff for Provincial, County and Municipal Level Schools in Taiwan Province (臺灣省省縣市立各級學校教職員遴用辦法).

**KEYWORDS:**

people's right to life (人民生存權), educator (教育人員), employment contract (聘僱契約). \*\*

**HOLDING:** Article 52 of the Regulation Governing the Selection of the Teachers and Staff for Provincial, County and Municipal Level Schools in Taiwan Province, as amended and promulgated by the Taiwan Provincial Government on August 24, 1978, prescribes that each school shall make a list of the names of teachers who will not be rehired after their employment contracts have expired, state

**解釋文：**台灣省政府於中華民國六十七年八月二十四日修正發布之臺灣省省縣市立各級學校教職員遴用辦法，其第五十二條關於各學校對於聘約期限屆滿不續聘之教員，應開具名冊，敘明原由，報請主管教育行政機關備查之規定，旨在督促學校對教員之不續聘，應審慎辦理，與憲法並無抵觸。

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\*\* Contents within frame, not part of the original text, are added for reference purpose only.

the reason for not offering reemployment, and make a report to the competent educational authorities to be used as a reference. The purpose of this provision is to urge schools to deal carefully with the matter of not rehiring teachers. This provision does not contradict the Constitution.

**REASONING:** Article 52 of the Regulation Governing the Selection of the Teachers and Staff for Provincial, County and Municipal Level Schools in Taiwan Province, as amended and promulgated by the Taiwan Provincial Government on August 24, 1978, prescribes: "Junior colleges and the above, elementary schools, junior high, and high schools shall make a list of the names of teachers who will not be rehired after their employment contracts have expired, state the reason for not offering reemployment, and make a report to the competent educational authorities to be used as a reference." This is the process regarding not rehiring a teacher whose employment contract has ended. The purpose of its clearly stating that the school shall make a list of names, explain the reason for not offering reem-

**解釋理由書：**台灣省政府於中華民國六十七年八月二十四日修正發布之台灣省省縣市立各級學校教職員遴用辦法，其第五十二條規定：「專科以上學校及中小學對於聘約期滿之教員不予續聘者，應開具名冊，敘明原由，報請主管教育行政機關備查」，此乃學校對於聘約期限屆滿之教員不予續聘之程序，其明示應列冊並敘述如何不為續聘之原由，向主管上級機關報備者，旨在督促學校對教員之不續聘，應審慎辦理，與憲法第十五條及第一百六十五條保障人民生存權及教育工作者生活之意旨並無牴觸。至台灣省政府教育廳六十六年五月九日教四字第三〇九七八號及同年七月十五日教四字第四一四一〇號函，並非原確定判決所依據之法令，核與人民聲請解釋之規定不合，不生解釋憲法問題，併此敘明。

ployment, and make a report to the competent supervising authority to be used as a reference is to urge schools to deal carefully with the matter of not rehiring teachers. This provision is not in contradiction with the intention of protecting the people's right to life and the educator's livelihood under Articles 15 and 165 of the Constitution. Since Ordinances J.4.T. No. 30978 issued on May 9, 1977, and J.4.T. No. 41410 issued on July 15, 1977, by the Office of Education of the Taiwan Provincial Government are not bases for the final judgment, the requirements for Interpretation cases petitioned by the people will not be satisfied. Thus, there is no question of the involvement of an interpretation of the Constitution.