

**Opinion No. 53-5779**

July 13, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Floyd Santistevan Assistant Superintendent of Public Instruction Santa Fe, New Mexico

{\*182} This will acknowledge receipt of your letter of July 1, 1953, requesting the opinion of this office on the following question:

A teacher is employed for 3 consecutive years. She does not get a contract for the fourth year because of reduction of force, but is up for the first vacancy to occur. About the fourth month a vacancy occurs, and she is employed. Will she acquire tenure?

The applicable statute is Section 55-1111 of the 1941 Compilation, Pocket Supplement, which gives tenure to a classroom teacher "\* \* \* properly certified and who has served a probationary period of three (3) consecutive years and holds a contract for the completion of a fourth consecutive year in a particular district \* \* \*"

It is noted that the law requires only the **completion** of the fourth year. It is apparent that this teacher, although not teaching the entire year, holds a contract covering the latter part of the school year. We feel that this complies with this requirement of the statute.

In addition, the law requires that the contract be for a fourth **consecutive** year. It is to be noted that it does not state that it must be for an **entire** school year. In this case the teacher holds a contract covering the fourth consecutive school year in the district, although not the entire year.

It is our opinion that the teacher involved is entitled to the benefits of the teacher tenure law and that the break of a portion of a school year does not deprive the teacher of tenure rights so long as the teacher has a contract of employment covering the **completion** of a **fourth** consecutive **school** year in a particular district.

By: Walter R. Kegel

Assist. Attorney General